

9 Transcript of excerpt of testimony of  
10 ROBERT MARTINEZ

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1                   THE COURT: All right.

2                   Ms. Armijo, does the Government have its  
3 next witness or evidence?

4                   MS. ARMIJO: Yes, Your Honor. Robert  
5 Martinez.

6                   THE COURT: Mr. Martinez, before you're  
7 seated, raise your right hand to the best of your  
8 ability there, and Ms. Standridge, my courtroom  
9 deputy, will swear you in.

10                  ROBERT MARTINEZ,

11                  after having been first duly sworn under oath,  
12 was questioned, and testified as follows:

13                  THE CLERK: Please be seated. State and  
14 spell your name for the record.

15                  THE WITNESS: Robert Martinez.

16 R-O-B-E-R-T, M-A-R-T-I-N-E-Z.

17                  THE COURT: All right. Mr. Martinez.

18                  Ms. Armijo.

19                  MS. ARMIJO: Thank you, Your Honor.

20                  DIRECT EXAMINATION

21 BY MS. ARMIJO:

22 Q. Mr. Martinez, have you ever been a member  
23 of the Syndicato de Nuevo Mexico?

24 A. I have and I am -- well, I have.

25 Q. You have?

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1 A. Yeah.

2 Q. What is that?

3 A. It's a prison gang that was created after  
4 the 1980 riot, and a family -- supposed to be a  
5 family. In reality, we're all a bunch of killers.

6 Q. Now, when did you join -- are there any  
7 other names for it, other than Syndicato de Nuevo  
8 Mexico? Does it have any other shorter names?

9 A. No, it doesn't.

10 Q. What about SNM?

11 A. SNM, the letters S-N-M from the alphabet,  
12 or just the letter S.

13 Q. You've heard it referred to as SNM or the  
14 S?

15 A. The S.

16 Q. And when did you join SNM?

17 A. 1988.

18 Q. And were you in prison at the time?

19 A. I was.

20 Q. And who brought you in, if anybody?

21 A. I can't honestly say I was brought in. I  
22 mean, I've always -- ever since I started doing  
23 time, I've always been associated with somebody,  
24 associated with the SNM in one way or another, even  
25 before I knew what the SNM was.

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1 Q. And so in 1986 -- you indicated it was  
2 1986, then, that you think you officially became a  
3 member?

4 A. '88.

5 Q. 1988, sorry. 1988?

6 A. '88.

7 Q. Now, I guess that leads us to talk  
8 about -- continue talking about the S. Did you do  
9 something --

10 MS. ARMIJO: Move for the admission of  
11 Exhibit Number 244, without objection, Your Honor.

12 THE COURT: All right. Any objection?

13 Not hearing any objection from the  
14 Defendants, Government's Exhibit 244 will be  
15 admitted into evidence.

16 (Government Exhibit 244 admitted.)

17 BY MS. ARMIJO:

18 Q. And can we please go to the first page of  
19 244?

20 All right. And you may not have had an  
21 opportunity to review this document, but do you see  
22 that it has your name on that document?

23 A. Yes, ma'am.

24 Q. And is that your NMCD number?

25 A. Yes, ma'am.

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1 Q. All right. So I'm going to start first  
2 with going back to what is Bates stamp 8956.

3 A. It's kind of hard for me to see without my  
4 glasses.

5 Q. Oh, sorry. Let's see --

6 THE COURT: Do you use these, or do you  
7 use something prescription?

8 THE WITNESS: I have prescription,  
9 bifocals. I have, like, this close, it just looks  
10 like blotches. The further I am away from it, the  
11 better I can see it.

12 BY MS. ARMIJO:

13 Q. All right. You know what? I can actually  
14 hand -- if I hand it to you, will you be able to see  
15 it a little bit better?

16 THE COURT: Does the witness know it's up  
17 there?

18 MS. ARMIJO: Yes. But if he can see  
19 that -- I have a hard time reading that.

20 A. I can see it a little bit.

21 MS. ARMIJO: May I approach the witness,  
22 Your Honor?

23 THE COURT: You may.

24 A. Yeah, I can see it a little better.

25

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1 BY MS. ARMIJO:

2 Q. A little better now. All right. And were  
3 you convicted in 1983 of a robbery?

4 A. I was.

5 Q. All right. And does that appear to be the  
6 judgment and sentence in relationship to that?

7 A. Yes, ma'am, it does.

8 Q. And how old were you in 1983?

9 A. 18.

10 Q. And how old are you now?

11 A. I'm going to be 54, now, in March.

12 Q. Do you have a nickname within the gang?

13 A. Do I have what?

14 Q. A nickname in the gang?

15 A. They call me Baby Rob.

16 Q. All right. Now, after receiving that, the  
17 robbery, do you also have a conviction for  
18 second-degree murder?

19 A. I do.

20 MS. ARMIJO: And I'm going to ask to  
21 display 8960, please.

22 May I approach the witness, Your Honor?

23 THE COURT: You may.

24 BY MS. ARMIJO:

25 Q. All right. And does that appear to be

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1 your conviction for second-degree murder?

2 A. Yes, ma'am, it does.

3 Q. And this occurred -- do you recall when  
4 this occurred approximately?

5 A. 1988.

6 Q. And what were you sentenced to; do you  
7 recall?

8 A. 39 and a half years.

9 Q. All right. And then I'm going to go to --  
10 and then based upon that, were you sent to prison?

11 A. I was.

12 Q. All right. Now I'm going to go to Bates  
13 8964.

14 MS. ARMIJO: If I may approach, Your  
15 Honor?

16 THE COURT: You may.

17 BY MS. ARMIJO:

18 Q. Are you familiar with this?

19 A. Yes, ma'am, I am.

20 Q. And how so? Is this the judgment of  
21 yours?

22 A. Yes, ma'am, it is.

23 Q. And does it indicate for aggravated  
24 battery with a deadly weapon and possession of a  
25 deadly weapon by a prisoner from 1984?

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1 A. Yes, ma'am, it does.

2 Q. I'm sorry, 1994?

3 A. Yes, ma'am, it does.

4 Q. All right. And how long were you  
5 sentenced in this case, if you recall?

6 A. That one --

7 Q. And we can go --

8 A. About 25 and a half years.

9 Q. All right. And I'm going to go to the  
10 next page. Was there also a conspiracy count?

11 A. Yes, ma'am.

12 Q. And so the sentence in this was  
13 approximately how long, do you recall?

14 A. 25 and a half.

15 Q. And did this occur while you were  
16 incarcerated?

17 A. Yes, ma'am, it was.

18 Q. Okay. And we'll get into the facts in a  
19 moment.

20 And then next we're going to go into Bates  
21 8967.

22 MS. ARMIJO: If I may approach, Your  
23 Honor?

24 THE COURT: You may.

25

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1 BY MS. ARMIJO:

2 Q. Is that another conviction of yours?

3 A. Yes, ma'am, it was. Yes, ma'am, it is.

4 Q. And is that from 2002?

5 A. Yes, ma'am.

6 Q. Is this for aggravated battery? It  
7 appears to be -- let's see. Oh, I should say -- and  
8 I believe in the second paragraph, it was convicted  
9 pursuant to a finding of guilty of aggravated  
10 battery?

11 A. Yes, ma'am, it is.

12 Q. Okay. And it indicates that occurred in  
13 March of 2000. And it might be in front of you, as  
14 well, if that helps you. There we go.

15 A. Yeah, that's better.

16 Q. Thank you.

17 A. March 15, 2000.

18 Q. Yes.

19 A. Yeah.

20 Q. And I believe right here it says  
21 conspiracy --

22 A. To commit aggravated battery, a fourth  
23 degree felony.

24 Q. Where did that crime occur?

25 A. Santa Fe County.

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1           Q.    Okay.  Was that while you were  
2 incarcerated?

3           A.    Yes, ma'am.

4           Q.    And how long did you receive on that; do  
5 you recall?

6           A.    Nine and a half.  Nine and a half years.

7           Q.    Let's go to page 8969, and maybe we can  
8 bring that up a little bit.

9           A.    Okay.  Yeah.  It's 20 and a half years.

10          Q.    Okay.  And it indicates that that's going  
11 to be served consecutive to one of your other cases?

12          A.    Okay.  I was incorrect.  That was  
13 committed in Southern New Mexico Correctional  
14 Facility.  That happened here at Southern.

15          Q.    Okay.  And it's 20 years consecutive to --  
16 it says your number is 94-580; is that correct?

17          A.    Yes, it's consecutive.

18          Q.    Okay.  And then, going to Bates 8971 --  
19 all right.  And if we can -- this appears to be from  
20 2008, battery on a peace officer?

21          A.    Yeah.  That was in Santa Fe for the nine  
22 and a half years.

23          Q.    Okay.  And then I believe -- can we get  
24 the bottom blown up a little bit?

25                   Is this the one that you were confusing

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1 earlier?

2 A. Yes, ma'am.

3 Q. All right. Then, actually go to page 8973  
4 of this document. Mr. Martinez?

5 A. Yes, ma'am.

6 Q. How many years do you still have to go?

7 A. How many years do I still have to do? I'm  
8 doing 25 and a half now, seeing the parole board in  
9 2026. Then I have to jump to the 20 and a half,  
10 which I have to do 85 percent of that, so 18 years  
11 of that. And then after that, when I jump to the  
12 nine and a half, I have to do 85 percent of that.  
13 So that's seven years of that. So altogether, about  
14 25 more years.

15 Q. Excuse me. Did you actually at one point  
16 calculate when you would be parole-eligible  
17 potentially, if everything goes well with you, with  
18 the parole board?

19 A. Actually, I never even thought about it.  
20 Are you talking about at the time I committed these  
21 crimes or --

22 Q. Oh, no, just recently, or any time.

23 A. I never really thought about it. I never  
24 thought I'd get out.

25 Q. All right. Because in order for you to

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1 move from one sentence to the next, you have to be  
2 granted parole; is that correct?

3 A. Yes, ma'am.

4 Q. And then you indicated -- I believe you  
5 have the year -- so let's see, you have how much  
6 left on -- or when is your next one?

7 A. On the 25 and a half that I'm doing now.

8 Q. Okay.

9 A. I'm hoping to see the parole board in  
10 2026.

11 Q. Okay. And then, if you're granted  
12 parole -- is that discretionary, I should ask, or do  
13 you know?

14 A. You mean up to the parole board?

15 Q. Yes.

16 A. Yeah -- well, I mean, I think I'll be  
17 granted parole, regardless. But I mean, that's what  
18 I'm expecting.

19 Q. And then you start another sentence?

20 A. I do.

21 Q. And how long is that one?

22 A. 20 and a half.

23 Q. 20 and a half years?

24 A. Yes, ma'am.

25 Q. And that would start potentially in the

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1 year 2026; correct?

2 A. 2026.

3 Q. And then --

4 A. Add 18 years to --

5 Q. Then 18 years on top of that; is that  
6 correct?

7 A. Yes, ma'am.

8 Q. All right. Sorry. I don't trust my math.

9 A. 2034.

10 Q. So we have 2026, we are eight years to  
11 that one; and then 20.5, and then 18.5. So that's  
12 47 years?

13 A. It's 2044, right.

14 Q. That's approximately, if it's eight years  
15 from now, until the year 2026; correct?

16 A. Right.

17 Q. And then you have 20.5 years on the other  
18 one; correct?

19 A. With 18 years to do on that one.

20 Q. With 18 years to do on that one?

21 A. Yeah.

22 Q. So out of the 20 years, you're going to do  
23 18, or you have another sentence on top of that?

24 A. No, 20 years. I'll do 18.

25 Q. So you'll do 18 years out of the 20. And

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1 is that it? You have one more?

2 A. Nine and a half.

3 Q. Okay. Plus nine. Okay. So 35 more  
4 years, approximately?

5 A. Okay, 35.

6 Q. Would that be about right?

7 A. Yeah.

8 MS. ARMIJO: I'm also going to move at  
9 this time to admit Government's Exhibits 666 and  
10 665, without objection.

11 THE COURT: Any objection to those two  
12 exhibits?

13 Not hearing any, Government's Exhibits 666  
14 and 665 will be admitted into evidence.

15 (Government Exhibit 665 and 666 admitted.)

16 MS. ARMIJO: And can we please show 665?

17 BY MS. ARMIJO:

18 Q. Mr. Martinez, what are we looking at?

19 A. That's a picture of me when I was 18 years  
20 old.

21 Q. All right. And let's go to Exhibit 666.  
22 What is that a picture of?

23 A. Of me, in 1988.

24 Q. All right. Thank you.

25 Now, so after the murder that you

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1 committed, is that when you went in, and you've been  
2 in since then; is that correct?

3 A. Yes, ma'am.

4 Q. And how old were you when you committed  
5 the murder?

6 A. I was 22.

7 Q. And so you've been in since then; is that  
8 correct?

9 A. Yes, ma'am.

10 Q. And all of those other felonies were  
11 committed while in the Corrections Department?

12 A. They were.

13 Q. Now, you talked a little bit about the  
14 SNM. What sort of rules did the SNM have when you  
15 joined?

16 A. What kind of rules?

17 Q. Do they have any rules?

18 A. I mean, as far as structure, I mean, there  
19 was always somebody -- depending on what facility  
20 you were in at that time, there was the Main  
21 facility, the South facility, there was Central,  
22 there was Southern. And depending what facility you  
23 were in, depending on who was calling the shots,  
24 there was always somebody there that was going to  
25 call the shots. As far as reglas, we call them

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1 rules and regulations.

2 Q. Yes.

3 A. We never really had that, other than,  
4 number one, you can't be a rat. You can't be a  
5 child molester. Those were the two main ones. Or  
6 sexual crimes.

7 Q. Okay. So you can't be a child molester;  
8 is that right?

9 A. That's right.

10 Q. And you can't be a rat. What does a rat  
11 mean?

12 A. Snitching; what I'm doing.

13 Q. All right. And that's one of the big  
14 rules that you can't break; is that correct?

15 A. That's true.

16 Q. And what is the penalty for that?

17 A. Death.

18 Q. Now, you indicated that there's different  
19 facilities, and that there's usually a person that's  
20 kind of in charge. Is there a term for that?

21 A. Jefe, shot-caller; usually just those two.

22 Q. If you've been in since '88, you've been  
23 in the SNM in the '80s, '90s, the 2000s, and into  
24 the 2000-teens. So that's over the course of four  
25 decades?

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1 A. Yes, ma'am.

2 Q. Not that I want to age you any.

3 A. That's fine.

4 Q. Have you seen changes in the SNM over that  
5 time period?

6 A. A lot of changes.

7 Q. Now, have you heard of the term "tabla"?

8 A. Yes, ma'am, I have.

9 Q. What's tabla within the SNM?

10 A. Yes, it was.

11 Q. What is it?

12 A. It's a group. It's like a group of three  
13 brothers. It's like the tabla, usually there was  
14 five, but sometimes we had three. And those band of  
15 brothers were the ones who more or less called the  
16 shots for the SNM.

17 Q. And would there be -- so there was a  
18 tabla. Would there be at times an overall leader?

19 A. There would be, and depending on who it  
20 was.

21 Q. When you joined, who was the overall  
22 leader?

23 A. At that time, Marty Barros, Felipe  
24 Cordova, old-timers.

25 Q. And from what you understand, were those

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1 the people that actually started SNM when it  
2 started?

3 A. No.

4 Q. Who were the starting members, if you even  
5 know?

6 A. We call them our godfathers. That was  
7 Juan Baca, Tom Coval, Tomas Campos, Kedrick Duran.  
8 These are people that go back before the riot,  
9 during the riot, and they were the ones that created  
10 the SNM.

11 Q. And then -- so you mentioned several  
12 people. Did you know of a -- were you ever on the  
13 tabla?

14 A. I was.

15 Q. When did you first get on the tabla?

16 A. '90s. I'd say throughout the '90s into  
17 the 2000s.

18 Q. And who were different people on the tabla  
19 with you?

20 A. There was me, there was Rupert Zamora,  
21 Arturo Garcia, Ray Baca -- well, Arturo Garcia,  
22 Rupert Zamora. Who else? Fernie Hernandez.  
23 Because it varied through the years.

24 Q. Would it vary on where you were located?  
25 For instance, would there be a different tabla at

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1 Southern versus the North at PNM?

2 A. Not necessarily. Because sometimes you  
3 drive up to Southern, and there would just be one  
4 shot-caller; there would be just one person there  
5 that would call the shots.

6 Q. All right. Was the tabla above the  
7 shot-callers of the different facilities?

8 A. That depended on whether or not he was  
9 doing his job.

10 Q. "He" being who?

11 A. Whoever that shot-caller was. I mean,  
12 hypothetically, like if I drove up to Southern and  
13 we had a shot-caller there and he wasn't doing his  
14 job, I would step up and do it.

15 Q. "You" being somebody on the tabla?

16 A. Or me being in the SNM, for the amount of  
17 years I've been in there.

18 Q. Have you ever heard of a person named  
19 Billy Garcia?

20 A. I have.

21 Q. Was he ever on the tabla or a leader of  
22 sorts?

23 A. He was a leader. He was never on the  
24 tabla, but he was a shot-caller.

25 Q. All right. Now you mentioned somebody by

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1 the name of Ray Baca?

2 A. Right.

3 Q. Who is Ray Baca?

4 A. We call him Pup. He's sitting in the  
5 back, with the bald head.

6 Q. Okay. What is he wearing?

7 A. Looks like a black sweater.

8 MS. ARMIJO: May the record identify  
9 Anthony Baca?

10 THE COURT: The record will so reflect.

11 BY MS. ARMIJO:

12 Q. Okay. Is his first name Anthony, and his  
13 middle name Ray?

14 A. Yes, ma'am.

15 Q. Does he more commonly go by Ray Baca, as  
16 opposed to Anthony? You mentioned Ray Baca.

17 A. He goes by Pup. I've always known him as  
18 Pup.

19 Q. Do you know how he got the nickname Pup?

20 A. I don't.

21 Q. And was he or is he a leader of the SNM?

22 A. Yes, he is.

23 Q. And do you recall when you first met him?

24 A. I've known him for 30 years, if not  
25 longer. I mean, we used to live -- when I came back

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1 on my parole violation, 39 and a half years, we  
2 lived together in cell block 4, north side, for a  
3 little while. And off and on throughout the years  
4 we've lived together.

5 Q. And so -- and you've known him since what  
6 year, I'm sorry, could you say again, approximately?

7 A. We lived together in '88. I've known him  
8 for like, 30 years, if not more.

9 Q. So did you -- do you know whether or not  
10 Pup had a structure within the SNM?

11 A. He did. We did.

12 Q. "We did," you said?

13 A. He did, we did. I mean --

14 Q. Was he above you?

15 A. Yes, he was.

16 Q. All right. And you mentioned that  
17 throughout different times -- and I'm going to go  
18 now to the '90s --

19 A. Okay.

20 Q. -- you were on the tabla at that time?

21 A. I was throughout the '90s, when he was out  
22 of state. When he was out of state was more or less  
23 when the tabla was created.

24 THE COURT: Ms. Armijo, could we take  
25 these up after the break?

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1 MS. ARMIJO: Sure.

2 THE COURT: Let's be in recess about 15  
3 minutes. All rise.

4 (The jury left the courtroom.)

5 THE COURT: All right. We'll be in recess  
6 for about 15 minutes.

7 (The Court stood in recess.)

8 THE COURT: All right. Anything we need  
9 to discuss before we bring the jury in? Ms. Armijo?  
10 Mr. Beck?

11 MR. BECK: Yes, Your Honor.

12 THE COURT: There is something? Go ahead.

13 MR. BECK: So with regard to the issue  
14 yesterday with Mr. Baca, I think I've got the  
15 evidence that we need under 104(b) to now bring in  
16 the murder conviction. And I'd direct the Court to  
17 our exhibit, Government's Exhibit 305, which is a  
18 recorded conversation by Mr. Baca. That's one that  
19 hasn't been admitted yet, but will be admitted.

20 THE COURT: Will be admitted?

21 MR. BECK: Yes.

22 THE COURT: What pages do I need to look  
23 at?

24 MR. BECK: It's a rather short transcript.

25 THE COURT: Do you have a copy for me? I

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1 can probably dig it out. But do you have a copy for  
2 me?

3 MR. BECK: I have a copy that I can give  
4 to you.

5 THE COURT: This is Exhibit 305?

6 MR. BECK: This is Exhibit 305. It's not  
7 marked on here, but it's what is Exhibit 305. And  
8 the context of the conversation should make clear  
9 that it is an SNM --

10 THE COURT: Who is talking on this one?

11 MR. BECK: It's Mr. Baca and Eric Duran.

12 THE COURT: All right. If you'll give me  
13 a copy of the transcript.

14 Ms. Duncan, do you know what he's talking  
15 about?

16 MS. DUNCAN: Yes, Your Honor. I know the  
17 conversation he's talking about. It's a  
18 conversation from Mr. Baca and Eric Duran. I agree  
19 that they're talking about the murder for which Mr.  
20 Baca was convicted. I completely disagree with the  
21 way that he's characterizing it as an SNM-involved  
22 hit. And I don't think it meets the burden under  
23 Rule 104.

24 THE COURT: All right. I'll take a look  
25 at it. Give it to Ms. Standridge up here.

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1                   MR. BECK: There may be. Well, we'll  
2 clear it up. The Court will see.

3                   THE COURT: All right. All rise.

4                   (The jury entered the courtroom.)

5                   THE COURT: All right. Mr. Martinez, I'll  
6 remind you that you're still under oath.

7                   Ms. Armijo, if you wish to continue your  
8 direct examination of Mr. Martinez, you may do so at  
9 this time.

10                  MS. ARMIJO: Thank you, Your Honor.

11                  THE COURT: Ms. Armijo.

12 BY MS. ARMIJO:

13                  Q. Mr. Martinez, I believe we were talking  
14 about the tabla a little bit before the break, and  
15 we were talking about Anthony Ray Baca. Now, at  
16 some point was he moved out of state? And I'm going  
17 to go back into the 1990s.

18                  A. He was sent out of state twice.

19                  Q. Okay. The first time that he was sent out  
20 of state, was something created, as far as the SNM,  
21 for purposes of running the SNM?

22                  A. If I'm correct, that was the '90s, or I  
23 would say, yeah, that's when we created the tabla.

24                  Q. Okay. And now, even though there was the  
25 tabla, who was on top of the tabla?

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1 A. Nobody.

2 Q. What about Mr. Baca?

3 A. If he was to come back from out of state,  
4 he would be.

5 Q. Okay. So he was out of state and the  
6 tabla was created to run the SNM; correct?

7 A. Correct.

8 Q. And when he got back into the state, he  
9 would be on top of the tabla, so to speak?

10 A. Well, he'd probably be -- with him and the  
11 respect that he had from all the brothers, he'd  
12 probably be the only shot-caller.

13 Q. Okay. So there would be no need for a  
14 tabla?

15 A. No.

16 Q. Now, do you know Daniel Sanchez?

17 A. I do.

18 Q. And do you see him in the courtroom today?

19 A. The gentleman with the glasses, blue  
20 sweater, red tie.

21 MS. ARMIJO: May the record reflect  
22 identification of the Defendant Daniel Sanchez?

23 THE COURT: The record will so reflect.

24 BY MS. ARMIJO:

25 Q. And how do you know Daniel Sanchez?

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1       A.     SNM. I consider him a brother, a carnal;  
2 I've known him for about, I'd say, 20 years maybe.

3       Q.     And did he have a nickname within the  
4 gang?

5       A.     Dan Dan.

6       Q.     How about Carlos Herrera?

7       A.     I know him, as well.

8       Q.     Do you see him in the courtroom today?

9       A.     He's behind you. He's wearing a blue  
10 jacket, light blue shirt.

11                  MS. ARMIJO: May the record reflect  
12 identification of Carlos Herrera?

13                  THE COURT: The record will so reflect.

14 BY MS. ARMIJO:

15       Q.     How long have you known Carlos Herrera?

16       A.     I'd say about 15 years, maybe.

17       Q.     Did he have a nickname in the gang that  
18 you know of?

19       A.     Lazy.

20       Q.     And referring to Daniel Sanchez, did I  
21 already ask you? I'm sorry, did he have a nickname?

22       A.     Did he have a what?

23       Q.     Did he have a nickname within the gang?

24       A.     Everybody knew him as Dan Dan.

25       Q.     Now, when we discussed your criminal

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1 history, you indicated that after your second-degree  
2 murder, all of those were committed within the  
3 Department of Corrections?

4 A. Yes, ma'am.

5 Q. Were any of those related to SNM activity?

6 A. I would say the 20 and a half that I  
7 picked up here in Southern in 2002, and I would say  
8 the one here in Southern --

9 Q. And what was --

10 A. -- in 2002.

11 Q. -- that related to?

12 A. You're talking about the victim, or what  
13 were the circumstances to the crime?

14 Q. The circumstances.

15 A. I can't remember his name. But the dude  
16 we assaulted killed one of our brothers in -- I  
17 think it was 1991, north side, cell block 5. The  
18 carnal's last name was Pacheco. And he had been  
19 walking the line in Southern for a couple of years  
20 when I drove up. So -- and I took it upon myself to  
21 take care of family business.

22 Q. Okay. You said a couple of things I want  
23 to cover.

24 A. Okay.

25 Q. You said "walking the line." What does

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1 "walking the line" mean?

2 A. In general population, general population,  
3 just going to work, going to school, going to the  
4 yard, going to the gym.

5 Q. Okay. So that's different from being in  
6 segregation?

7 A. Yes, ma'am.

8 Q. And then you mentioned that he had killed  
9 an SNM brother?

10 A. Yeah.

11 Q. So you took it upon yourself to do  
12 something about that?

13 A. At the time, the shot-callers there in  
14 Southern, they called him Sexy Walker.

15 Q. They called him what?

16 A. They called him Sexy Walker. That was his  
17 nickname. His name was Leno G. And the other one  
18 was -- his nickname was Tibo, Nick Chavez. They  
19 were the ones that were running the line at Southern  
20 at that time. I had drove up. I did a week in  
21 orientation. Then I went to the line for a week.

22 And I was out in the yard one day, and  
23 they come up -- there was a couple of brothers out  
24 there -- there was a couple brothers out there in  
25 the yard. I was working out by myself. A couple

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1 brothers come up to me, tell me, "Hey, isn't that  
2 the guy that killed the carnal Pacheco in '91?"

3 Q. Then what did you do?

4 A. At that time, I told them, "I don't know.  
5 You tell me."

6 And that's when they said, "That's him.  
7 That's him."

8 I ran around looking for a shank. I  
9 couldn't find one.

10 Q. So what did you do?

11 A. Picked up a rock and busted his head open.

12 Q. And did he survive?

13 A. Yes, he did.

14 Q. Now, some of your convictions, or at least  
15 one of them was for aggravated assault on a peace  
16 officer?

17 A. Yeah.

18 Q. What did that entail?

19 A. 2000s, 2005, -6, -7, there at the North  
20 facility, everybody was pretty much going at each  
21 other.

22 Q. When you say "everybody," what are you  
23 referring to?

24 A. I mean, people were slipping cuffs, people  
25 were slipping their handcuffs, and going at rivals.

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1 And I moved on a couple of COs.

2 Q. When you say you "moved on a couple COs,"  
3 what do you mean?

4 A. Sliced them; you know, tried to assault  
5 them.

6 Q. And is that something that, during that  
7 time period, was common with the SNM?

8 A. If the CO disrespected you, I would say it  
9 was.

10 Q. Well, let me talk a little bit about  
11 disrespect. As an SNM Gang member, if somebody  
12 disrespects you, can you just let that go, or do you  
13 have to do something about it?

14 A. Well, it will make you look bad.

15 Q. Okay.

16 A. It will make you look weak.

17 Q. So then what do you have to do if somebody  
18 disrespects you?

19 A. You have to do what you have to do, beat  
20 them down, stab them, whatever. I mean, because --  
21 I mean, to me, if I'm with one of my brothers and  
22 somebody starts bad-mouthing him, starts talking  
23 shit to him and he doesn't do anything, in my eyes  
24 he looks weak. And I don't want a brother like  
25 that.

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1 Q. Okay. Starting in the 1990s, were drugs  
2 part of SNM culture? I don't mean starting, but I'm  
3 referring to the 1990s.

4 A. That's always been our habit. Drugs have  
5 always been our habit.

6 Q. Did you know anybody named Dennis  
7 Trujillo?

8 A. I did. He's passed away.

9 Q. And who was Dennis Trujillo?

10 A. He was a brother. They called him White  
11 Bear. He was a carnal.

12 Q. And where was he in the 1990s, do you  
13 recall?

14 A. He lived -- at that time I lived in cell  
15 block 3. He lived south side, cell block 4.

16 Q. And what unit are we talking about?

17 A. Old Main facility.

18 Q. And the Old Main facility -- do you know  
19 what year that closed?

20 A. If I'm correct, I think it closed, like,  
21 '97, I think.

22 Q. And was that where the riots took place?

23 A. Yes, ma'am.

24 Q. Now, paperwork. What's paperwork in  
25 relationship to the SNM?

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1       A. If you're a rat, there is paperwork on  
2 you. It comes -- like me, for example, I'm  
3 testifying in this case. They get paperwork on me.  
4 They can go around showing it to other brothers,  
5 tell them, "Hey, look, Baby Rob is a rat."

6                  And right there, I put a target on my  
7 back. I'm marked for death, in other words.

8       Q. Okay. What can paperwork consist of?

9       A. What do you mean?

10      Q. Does it have to be a certain item, like a  
11 police report, or could it be your testimony here  
12 today?

13      A. Statements or tape recordings.

14      Statements, transcripts, tape recordings. That's  
15 usually what it consists of.

16      Q. Now, I want to go back to 2013 -- well,  
17 no, let me go back to 2011. Where were you housed;  
18 do you recall?

19      A. 2011, I was probably at the North  
20 facility. That's where I've done the majority of my  
21 time.

22      Q. Okay. At the North facility?

23      A. Yes, ma'am.

24      Q. One quick question about the Main. We  
25 were talking about Dennis Trujillo. Had he brought

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1 drugs into the Main?

2 A. One of the main ones.

3 Q. One of the main ones bringing drugs into  
4 the Main?

5 A. Yes.

6 Q. And did he distribute -- "he" being Dennis  
7 Trujillo -- did he distribute those drugs to other  
8 people?

9 A. Yeah.

10 Q. And "other people" being other inmates?

11 A. Yeah. Yes, ma'am.

12 Q. Now, Javier Molina. Do you know who that  
13 was?

14 A. I knew the name. But I've never done time  
15 with him.

16 Q. Okay. And I believe we were talking  
17 about -- let's go to 2011. Do you know somebody by  
18 the name of Alex Sosoya?

19 A. I do.

20 Q. Who was Alex Sosoya?

21 A. He was a carnal. He was a carnal -- or is  
22 a carnal.

23 Q. Okay. And I notice you say he was or  
24 is --

25 A. I say "was," because I renounced. I'm no

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1 longer a part of the SNM. And I say he was, or he  
2 is. He's on the streets. But he's a carnal.

3 Q. Did you have issues with him?

4 A. I did.

5 Q. When did those issues start?

6 A. I'd say around 2005, -6, -7, somewhere  
7 around there. We were at the North facility. We  
8 were all there. They have housing units. 1A, 1B,  
9 2A, 2B, 3A, 3B. I'm in 3B V pod. He's in, I think,  
10 W or X pod. I get a knock on the wall one day. And  
11 Carlos Herrera was my neighbor. And he tells me  
12 underneath the bunk, he says, "Hey, if dude gives  
13 you something," he tells me, "be careful."

14 I told him, "What are you talking about?"

15 And Carlos Herrera told me, he said that  
16 he was out in the yard running his mouth, talking to  
17 the other brothers saying that I, along with Gerald  
18 Archuleta and Arturo Garcia -- that we're the ones  
19 that had the onda all fucked up, and all they care  
20 about is getting high, and the onda would be much  
21 better off if we were out of the picture.

22 So to me, I took that to mean that no  
23 matter how you word it, you're talking about trying  
24 to take me out. So I put a green light on him.

25 Q. Okay. You said several things I want to

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1 go back on.

2 A. Okay.

3 Q. Talk about the onda. What's that?

4 A. The family, the SNM.

5 Q. And you mentioned that several people  
6 there talked about you and Arturo Garcia?

7 A. Right.

8 Q. And do you know Arturo Garcia's nickname?

9 And if you don't remember it, that's fine.

10 A. I can't remember it right off the top of  
11 my head. Shotgun.

12 Q. And Gerald Archuleta?

13 A. I know him. They call him Styx.

14 Q. And you mentioned that you had issues with  
15 the three of you. Were you all part of the tabla?

16 A. We were.

17 Q. And you mentioned that Carlos Herrera  
18 knocked on your wall. Were you referring to -- did  
19 you share a common cell with him?

20 A. We were neighbors.

21 Q. And could you talk through the vents, or  
22 under -- you could talk through --

23 A. You could talk through the vent, you could  
24 talk underneath the bunk, and then you could talk at  
25 the door. But he called me underneath the bunk.

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1 Q. Okay. And you can communicate that way?

2 A. Yes, ma'am.

3 Q. All right. So Carlos Herrera told you  
4 something that led you to believe that, for lack of  
5 better terms, Alex Sosoya was disrespecting you; is  
6 that correct?

7 A. He was putting -- to me, he was talking  
8 about trying to take me out. In other words, trying  
9 to get me killed.

10 Q. So what did you do in turn?

11 A. I put a green light on him.

12 Q. Now, was that green light acted upon  
13 initially?

14 A. By me.

15 Q. Okay. Did it take some time for you to be  
16 able to act on that?

17 A. It did.

18 Q. Okay. And when was it that you were able  
19 to act on that green light?

20 A. I think it was 2011.

21 Q. Okay. And where were you?

22 A. In South facility in Santa Fe.

23 Q. Okay. So you mentioned that this issue  
24 that came up was a few years before, at least;  
25 correct?

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1           A.    Correct.

2           Q.    And so I'm assuming that you weren't  
3 living with Mr. Sosoya that whole time?

4           A.    He was living next door to me in one of  
5 the other pods.

6           Q.    That whole time? Or did you separate and  
7 then find yourselves, in 2011, in the same vicinity  
8 again; do you recall?

9           A.    He ended up paroling. Then he ended up  
10 coming back on parole. And when he came back on his  
11 parole violation, we were living together in S pod.

12          Q.    Okay. And would that be, then, in 2011,  
13 approximately?

14          A.    That was before 2011. That was before he  
15 and I went to the South facility. We were both  
16 there together there at the North.

17          Q.    And did the problems remain?

18          A.    He confronted me. He asked me if I put a  
19 green light on him. And I told him yes, and I told  
20 him why.

21          Q.    All right. And then what happened?

22          A.    I just told him, you know, "I'm not going  
23 to talk shit about you. I'm not going to disrespect  
24 you. When the time comes, we'll handle our  
25 business."

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1           And it continued like that for a little  
2 while. Then eventually, I ended up going to the  
3 South facility. And then he showed up, they put him  
4 as my neighbor.

5       Q. Did that work out very well?

6       A. Not in the long run.

7       Q. Tell us what happened.

8       A. While he was my neighbor, and I knocked on  
9 the wall and he asked me, he goes, "Who is that?"

10           I told him, "Figure it out." I told him,  
11 Look, I told him, "They're going to keep you on  
12 orientation for two weeks. When you come out, we'll  
13 go in the yard and we'll talk about this."

14           I guess he tried to intimidate me or  
15 something, because he said, "Well, I'm kind of a big  
16 guy."

17           I told him, "That doesn't mean nothing,"  
18 so --

19       Q. Was he bigger than you?

20       A. He was.

21       Q. And was this disagreement between you two  
22 known amongst other SNM members that were with you?

23       A. It was. I mean, to me, it was SNM  
24 business. At that time, I was one of the  
25 shot-callers, and to me it was SNM business.

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1 Because, like I said, it doesn't matter how he  
2 worded it. To me, he's talking about taking out the  
3 hit.

4 Q. Do you know somebody by the name of Mario  
5 Rodriguez?

6 A. I do.

7 Q. Was he living with you at the time?

8 A. He was.

9 Q. Was he -- did you make him aware of this  
10 situation?

11 A. I did.

12 Q. Or was he aware of the situation?

13 A. He knew about it.

14 Q. And did there come a point in time when  
15 the two of you acted upon this issue that you had  
16 with Alex Sosoya?

17 A. We did.

18 Q. And how is it that he was involved, if you  
19 know? I mean, did he say, you know, "I'm going to  
20 support you," did you recruit him, or --

21 A. I didn't recruit him. I mean, he was a  
22 brother. But he was a soldier. He was down to do  
23 whatever needed to be done.

24 Q. Did he tell you, in fact, that he wanted  
25 to have your back on this issue?

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1           A. I mean, I had -- when we were all there,  
2 it was me, Blue, and a couple other brothers;  
3 another brother named Robert Lovato, Sr., and  
4 Benjamin Clark. We were all living on the top tier.  
5 And I went to each and every one of them and told  
6 them, "You know what, fall back. I'll take care of  
7 this by myself."

8                 Every one of them said okay, except Blue.  
9 Blue said, "No, fuck that. I'm going with you."  
10 Excuse the language, but --

11           Q. That's okay. Is that what he said?

12           A. Yeah.

13           Q. Okay. Now, so there was an incident,  
14 then, that -- outside in the rec yard?

15           A. Yes, ma'am.

16           Q. And what happened?

17           A. We moved on him. I mean, we were in the  
18 yard. The COs -- it so happened the Deputy Warden  
19 happened to escort us to the yard that day. And as  
20 soon as they put us in the yard, we started playing  
21 basketball. And I guess maybe about 10, 15 minutes  
22 passed by. We stopped playing basketball for a  
23 little while. We had brothers in the next yard to  
24 us.

25           Q. Okay. Were they separated from you?

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1       A. There is the top tier. They didn't mix  
2 the bottom tier with the top tier. And when we went  
3 to the yard, we were in separate yards and we were  
4 separated by chain link fences.

5       Q. Okay.

6       A. So during that break, a few of the  
7 brothers went up and started talking to brothers in  
8 the other yard. And I kind of stood back. And I  
9 don't know what happened, but I guess a couple of  
10 the brothers started arguing, and Churo happened to  
11 be standing by the basketball court, and I seen Blue  
12 move towards him, and I knew what he was going to  
13 do. I could see he was going to move on him. So he  
14 did. He hit him from behind. And I came and hit  
15 him from the side.

16       Q. Okay. Churo. Who is Churo?

17       A. Alex Sosoya.

18       Q. So you saw Blue kind of go after him --

19       A. I did.

20       Q. -- and then you joined in?

21       A. I did.

22       Q. And did you all have any weapons?

23       A. We had homemade shanks. They were melted  
24 plastic, melted plastic out of hot pots. We had hot  
25 pots at that time, which we used to heat up water in

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1 our cells. And we melted them down and made shanks  
2 out of them; wrapped pieces of cloth around them,  
3 and used those.

4 Q. Did you actually stab Sosoya?

5 A. I lost possession of mine. When I first  
6 jumped on him, mine fell out of my hand and he  
7 grabbed ahold of it. Well, he was never able to use  
8 it.

9 Q. Okay. And did you then start attacking  
10 him?

11 A. We did. We continued attacking him until  
12 I got hit in the head with -- one of them gas  
13 grenades hit me in the head. And it was like gas is  
14 what affected me, that stopped me from assaulting  
15 him.

16 Q. Is it fair to say that Corrections had to  
17 use a great deal of nonlethal items to try and stop  
18 the fight?

19 A. They said they were within seconds of  
20 using live rounds. So I would say yeah.

21 Q. And did you end up having to go to the  
22 hospital?

23 A. I spent two days in the hospital.

24 Q. What injury did you have?

25 A. When the gas grenade hit me in the

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1 forehead, it busted my forehead open. When they  
2 gave me a CAT scan, they said the pressure of it  
3 hitting me in the forehead caused the front of my  
4 brain to bleed. And if it continued to bleed, I  
5 could slip into a coma.

6 Q. So you were hospitalized for two days?

7 A. I was.

8 Q. And are you aware -- or did you see Mario  
9 Rodriguez, if he did anything to Alex Sosoya?

10 A. He was the one that choked him out.

11 Q. And did you see him bite his ear or not?

12 A. I couldn't see that.

13 Q. Were you made aware of that later?

14 A. Yeah.

15 Q. So after that incident, did you get in  
16 trouble with Corrections for that?

17 A. I got sent back to the North facility for  
18 a couple of years.

19 Q. And that was in 2011?

20 A. Yes, ma'am.

21 Q. Okay. North facility being the highest  
22 level?

23 A. Level 6 at that time.

24 Q. And then do you eventually make your way  
25 down to the South again?

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1 A. I went back to the South in 2013.

2 Q. When you went back to the South in 2013,  
3 do you recall if you heard anything -- or maybe you  
4 heard about it before -- I don't want to put words  
5 into your mouth. Did you hear anything about  
6 paperwork in reference to Javier Molina?

7 A. I did.

8 Q. And what was your understanding --

9 MS. DUNCAN: Your Honor, I'm going to  
10 object. This calls for hearsay.

11 THE COURT: I think you're going to have  
12 to tie it down a little bit better than just say  
13 "heard." So do you want to lay some foundation  
14 before I hear this?

15 MS. ARMIJO: Certainly, Your Honor. Let  
16 me ask a few other questions first.

17 THE COURT: Don't state what you've heard  
18 until I've decided that. Okay?

19 THE WITNESS: Okay.

20 THE COURT: Just answer her question.

21 THE WITNESS: All right.

22 BY Ms. Armijo:

23 Q. And again, at this point, I don't want you  
24 to say what you heard, but if you could just answer  
25 a couple of these questions.

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1           A.     Okay.

2           Q.     Did you hear information about Javier  
3 Molina and paperwork?

4           A.     I did.

5           Q.     Okay. Based upon what you heard, did you  
6 have a conversation with other SNM members about the  
7 paperwork and what should be done about it?

8           A.     I did.

9           Q.     And was that conversation that you had at  
10 the time -- were you a leader still in SNM?

11          A.     Yes, ma'am.

12          Q.     And was that conversation in reference as  
13 to what should be done with the paperwork?

14          A.     Yes, ma'am, it was.

15          Q.     And did that conversation involve people  
16 such as -- and this is just yes or no -- did that  
17 conversation involve Lupe Urquiza, if you recall?

18          A.     Yes, ma'am, it did. It involved --

19          Q.     Okay. Tell me the people that involved,  
20 without telling me the conversation.

21          A.     It involved Lupe Urquiza. They call him  
22 Marijuana, and Mario Rodriguez, Blue; and Archie  
23 Varela. They call him Pumba.

24          Q.     And the conversation that you had -- was  
25 there a discussion about the paperwork and what

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1 should be done, or about the paperwork?

2 A. We had discussed -- I mean, because the  
3 rumor --

4 Q. I don't want to get into what the rumor  
5 was.

6 A. Okay. Well, the discussion was that if  
7 either one of -- any of us four ended up in Las  
8 Cruces, we were supposed to take care of that.

9 Q. Okay.

10 A. In other words, we were supposed to take  
11 care of business and take him out.

12 Q. Okay. And when was this conversation?

13 A. In 2013, when we were at the South.

14 Q. Okay. And do you know -- did you know  
15 where the paperwork was at that time?

16 A. I didn't.

17 Q. Did you know if anybody was going to the  
18 South -- Southern. I'm sorry. You were at the  
19 South. Was there anyone going to Southern?

20 A. After we had that conversation, Mario  
21 Rodriguez ended up going to -- coming to Southern  
22 first.

23 Q. Okay. And then do you know, eventually,  
24 whether or not Mauricio Varela or Lupe Urquiza went  
25 down south?

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1       A. I think it was after -- if I'm correct,  
2 and I remember correctly, Blue left -- came to  
3 Southern right before the holidays of 2013. It was  
4 around that year. And then right after the holidays  
5 is when Mauricio Varela and Lupe Urquizo -- they  
6 both came down to Southern together.

7       Q. All right. And had you known about -- and  
8 when you're saying "take care of it," what are you  
9 referring to?

10      A. Taking care of business. In other words,  
11 taking him out.

12      Q. Taking him out, meaning killing him?

13      A. Killing him.

14      Q. Okay. And so was there a hit out on  
15 Javier Molina, as far as you knew?

16      A. Yeah. Yes, ma'am.

17      Q. And do you know -- since you had this  
18 conversation about, you know, it being acted on, do  
19 you know how long that hit had been outstanding?

20      A. It actually -- it had been out there at  
21 least a year prior to his murder taking place.

22      Q. All right. Now, were you at the south  
23 when Javier Molina was killed?

24      A. I was.

25      Q. And what happened when Javier Molina was

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1 killed? Anything about your housing situation?

2 A. I got sent back to the North facility. I  
3 was on my way to Southern, I was on my way down here  
4 at that time. I was just waiting to see the  
5 committee. But when that took place, Gregg  
6 Marcantel locked us all up back at the North  
7 facility.

8 Q. Okay. And just so that we're clear,  
9 you're talking about -- and the jurors have heard  
10 there is the North, the South, and then Southern.  
11 Is it fair to say that North is Level 6, and  
12 Southern Level 5 at that time?

13 A. Yes, ma'am.

14 Q. And then Southern being Level 4?

15 A. Southern was Level 4, for us.

16 Q. So would you then start -- if you were at  
17 Level 6, as an SNM Gang member, was it your hopes to  
18 eventually make your way down to Level 4 at  
19 Southern, to have more privileges?

20 A. Yes, ma'am.

21 Q. And were there a lot of SNM members being  
22 housed at the time, in 2014, at Southern?

23 A. We had one housing unit. They had one  
24 housing unit that was specially -- I guess you could  
25 say specially made for us. We were separated from

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1 the rest of the population. We had our own little  
2 yard. In other words, we couldn't mix with anyone,  
3 with the rest of the general prison population.

4 Q. Now, you went back up then, after the  
5 Javier Molina murder, to the North lockup?

6 A. Yes, ma'am.

7 Q. And how long did you stay locked up?

8 A. I'm -- I was going to say I'm still locked  
9 up today, but --

10 Q. I should say up North.

11 A. I would say over a year.

12 Q. And how did you feel about that?

13 A. I mean, I kind of figured after that  
14 incident happened, maybe we'd be locked down three  
15 months, six months. But once it went into a year, I  
16 mean, at that time --

17 Q. Were you happy about it?

18 A. No, I wasn't.

19 Q. Now, you mentioned Gregg Marcantel locked  
20 you down. Who was Gregg Marcantel?

21 A. He was Secretary of Corrections.

22 Q. And at some point in time, in -- so that's  
23 2014, you're locked down for over a year, so now  
24 we're into 2015. Were you still a leader?

25 A. I was.

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1 Q. And do you know somebody by the name of  
2 Roy Martinez?

3 A. Yes, ma'am, I do.

4 Q. What is his nickname?

5 A. They call him Shadow.

6 Q. Was he in the gang?

7 A. Yes, ma'am, he was.

8 Q. Was he a leader?

9 A. He was.

10 Q. So we're now into 2015. Did you decide to  
11 do something about the situation?

12 A. Yes, ma'am, we did. I mean, because at  
13 that time, after Gregg Marcantel locked us up, he  
14 had shipped Dan Dan, Pup, and Archie Varela out of  
15 state. And so around that time, I mean, we were mad  
16 that he had kept us locked up at that time. So at  
17 that time we told ourselves, you know, Fuck him; he  
18 wants to exert his authority, let's exert ours.

19 Q. What do you mean by exert your authority?

20 A. We put a hit on him.

21 Q. When you say "put a hit on him," what do  
22 you mean?

23 A. Wanted to have him killed.

24 Q. And who is "he"?

25 A. Mr. Gregg Marcantel, Secretary of

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1 Corrections.

2 Q. So what did you decide to do?

3 A. I wrote a couple letters to a couple  
4 brothers on the streets. I didn't know -- at that  
5 time I wasn't writing to very many people, I wasn't  
6 talking -- I wasn't using the phone at all, and I  
7 didn't know too many people on the streets. I knew  
8 a couple of brothers on the streets. And the ones  
9 that I did know out there, I decided I would write  
10 them a letter and tell them it was time for them to  
11 step up.

12 Q. All right.

13 MS. DUNCAN: Your Honor, can we approach  
14 for a minute?

15 THE COURT: You may.

16 (The following proceedings were held at  
17 the bench.)

18 MS. DUNCAN: Your Honor, I think you've  
19 ruled on this, but I would like to preserve our  
20 objections to this being hearsay.

21 THE COURT: You'll have to remind me what  
22 these are.

23 MS. DUNCAN: These are the letters that  
24 Mr. Martinez wrote to alleged SNM members on the  
25 street regarding the hit on Gregg Marcantel.

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1                   THE COURT: Government's Exhibits.

2 Anybody else have anything they want to say on this?

3 Government's Exhibits 277 and 276 will be admitted  
4 into evidence.

5                   MS. DUNCAN: I'm sorry. Just a moment.

6                   MR. LOWRY: Pardon me, Your Honor. No,  
7 these letters were written in response to Eric  
8 Duran's solicitation of the --

9                   THE COURT: I know that's your argument  
10 and stuff. But I'll let the jury make that one out.

11                  MS. DUNCAN: I don't want to keep  
12 interrupting. Can I have a standing objection to  
13 the co-conspirator statements, given that we did not  
14 get them?

15                  THE COURT: All right.

16                  (The following proceedings were held in  
17 open court.)

18                  THE COURT: All right, Ms. Armijo.

19                  MS. ARMIJO: All right. I move for the  
20 admission of 276 and 277.

21                  THE COURT: They are admitted into  
22 evidence.

23                  (Government Exhibit 276 and 277 admitted.)

24 BY MS. ARMIJO:

25 Q. Mr. Martinez, you indicated that you

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1 decided to write letters?

2 A. Yes, ma'am.

3 Q. How did that come about?

4 A. You mean how did the topic come up?

5 Q. Well, no. How did you decide that you  
6 wanted to send letters out to people on the street  
7 to move on this hit? Is that something that you  
8 came up with yourself, or --

9 A. Not by myself. I mean, Roy Martinez, Eric  
10 Duran -- I mean, we were all neighbors. And the  
11 whole idea came about is -- that there had been a  
12 hit put on Dwayne Santistevan.

13 Q. And who is Dwayne Santistevan?

14 A. At that time he was head of STIU.

15 Q. And what hit had been put out on him?

16 A. What hit had been put on him?

17 Q. Yes. You said that there had a hit out on  
18 him.

19 A. Yeah.

20 Q. Tell us about that.

21 A. That there had been a hit on him for  
22 making comments about Anthony Ray Baca; that he had  
23 made comments that he couldn't sleep well at night  
24 knowing he was walking the line. And that's when  
25 Pup had put a hit on him.

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1 Q. Okay.

2 A. So we would talk about that. And that's  
3 when Gregg Marcantel's name came up. And then  
4 that's when we decided, Well, might as well just  
5 throw him in there, too. So --

6 Q. All right. Now, did you know about the  
7 hit on Dwayne Santistevan prior to your writing  
8 these letters and including Gregg Marcantel in on  
9 the hit?

10 A. I did.

11 Q. And how long had the hit on Dwayne  
12 Santistevan been outstanding?

13 A. That I don't know.

14 Q. Was it before you wrote these letters and  
15 had conversations with Eric Duran and Roy Martinez?

16 A. It was.

17 Q. And is it something that you knew about?

18 A. I did.

19 Q. And you indicated that Ray Baca put that  
20 hit out?

21 A. Yes.

22 Q. And I'm first going to go to Exhibit  
23 Number 276. And if we enlarge that, okay, does that  
24 look like your writing?

25 A. It is.

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1 Q. Did you write this?

2 A. I did.

3 Q. All right. And who is Ruben?

4 A. His name is Ruben Rojos. They call him  
5 Gemini. He's a carnal. He's a brother, as well.

6 Q. And was he out on the street?

7 A. He was.

8 Q. Was your plan to get this letter out to  
9 Ruben on the street?

10 A. It was.

11 Q. And when was this written, if you can  
12 recall?

13 A. It was -- when was it? I would say like  
14 early 2015.

15 Q. So this says, "Ruben" -- and if I'm  
16 misreading this, tell me, okay?

17 A. Okay.

18 Q. "Ruben, I'm going to make this simple. We  
19 the big homies got together and decided that it's  
20 time for you vatos who constantly get out." Is that  
21 what that says?

22 A. Yes, ma'am.

23 Q. And "vatos" means what?

24 A. Brothers.

25 Q. Okay. "And come back expecting to be

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1 welcomed with open arms to step up and show your  
2 loyalty to the family. These days are done."

3 A. Those days.

4 Q. "Those days are done. We're tired of" --

5 A. Would you like me to read it?

6 Q. Sure. Go ahead.

7 A. "We're tired of seeing you vatos get out  
8 and do nothing for the onda. We've come together  
9 and decided that it's time for us to send a message  
10 to these fools, and it's your responsibility to" --

11 Q. Hold on. She's going to make that bigger  
12 again. I wasn't sure if you could see it very well.

13 A. Okay. "Tired of seeing you vatos get out  
14 and do nothing for the onda. We've come together  
15 and decided that it's time for us to send a message  
16 to these fools and it's your responsibility to  
17 deliver it. We want Gregg Marcantel, Secretary of  
18 Corrections, and Dwayne Santistevan to be taken out.  
19 The details you can figure out on your own. But  
20 know this: If you decide to ignore this order or  
21 fail to even make an attempt, we do have a number of  
22 brothers who have been directed to reach out to you.  
23 And if for some reason or another they can't get  
24 ahold of you, they've been instructed to reach out  
25 to your other family members. We're counting on

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1 you, so don't let us down."

2 Q. Okay. And you indicate here that if  
3 you -- they'll "reach out to your family members,"  
4 what did you mean by that?

5 A. In other words, if they can't get ahold of  
6 you, they're to hit your mom, your dad, your  
7 brother, your sister, your son, your daughter,  
8 anybody, any family member.

9 Q. All right. So you meant business by  
10 writing this.

11 A. Yes, ma'am.

12 Q. Now, I'm going to show you Exhibit Number  
13 277. All right. And this one is to a person by the  
14 name of Sammy. Do you know who Sammy is?

15 A. Sammy Griego, yes, I do. He's a carnal,  
16 as well.

17 Q. Was he out on the streets in early 2015?

18 A. He was.

19 Q. All right. And what did you say to Sammy?

20 A. "Sammy, straight and to the point. We the  
21 big homies got together and decided that we were  
22 going to give you one opportunity to make things  
23 right with us and the rest of the familia. We've  
24 decided that Gregg Marcantel, Secretary of  
25 Corrections, and Dwayne Santistevan need to be taken

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1 out, and it's your responsibility to step up and get  
2 this done. It's time you show your loyalty to the  
3 family. The details and everything you can work  
4 out. Know this: If you should fail to step up and  
5 take care of this, we do have a number of brothers  
6 who have been instructed to reach out to you. And  
7 if they can't get ahold of you, then they've been  
8 instructed to reach out to your other family  
9 members. So don't let us down. We know that you  
10 are probably in contact with Grandma. The same  
11 thing goes for him. He needs to step up and assist  
12 you in this matter. We're on."

13 Q. Okay. Now, I wanted to ask you about a  
14 couple of things. You say, "We the big homies."  
15 Who are you referring to?

16 A. Talking about me and Roy.

17 Q. Okay. Is "big homies" the term for  
18 leaders or --

19 A. Yeah, shot-callers.

20 Q. Okay. Then you say, "We're going to give  
21 you an opportunity to make things right with us."  
22 What did you mean?

23 A. He had some problems with a few brothers  
24 throughout the years, and he's bumped heads with a  
25 lot of brothers. And I was willing to back his

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1 play, if he was willing to complete this.

2 Q. So you're giving him a chance to redeem  
3 himself, so to speak?

4 A. Yes, ma'am.

5 Q. Then you say the same kind of things  
6 about, If you don't do this, we know where your  
7 family lives; is that right?

8 A. Brothers have been instructed to reach out  
9 to other family members.

10 Q. Okay. And what did you mean by that?

11 A. Same thing. If they can't get ahold of  
12 him, reach out to mom, dad, brother, sisters, any  
13 other family member.

14 Q. And you write in here, "We know that  
15 you're probably in contact with Grandma." Who is  
16 Grandma?

17 A. Gerald Archuleta, Styx.

18 Q. Does he also have the nickname "Grandma"?

19 A. I know him as Grandma.

20 Q. Okay. Is he also called Styx?

21 A. Yes. The majority of brothers -- well,  
22 the majority of the prison population knows him as  
23 Styx. But --

24 Q. Why do you know him as Grandma?

25 A. Because his grandmother, I gave him the

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1 nickname Grandma, because his grandmother used to  
2 come and visit him at the Main.

3 Q. So you personally started calling him  
4 Grandma?

5 A. Yes, ma'am.

6 Q. Did others know that nickname, as well,  
7 within the SNM?

8 A. A few that he was closer to.

9 Q. Okay. And so you write both of these  
10 letters to be sent out?

11 A. Yes, ma'am.

12 Q. And who do you give them to?

13 A. Eric Duran.

14 Q. And when you gave them to Eric Duran, what  
15 was your expectation?

16 A. He told us he could -- I mean, my first  
17 thought was, Well, how are we going to get 'em out?  
18 And he said he would send them out through legal  
19 mail, because they're not allowed to open our legal  
20 mail or look at our legal mail. So I gave it to  
21 him.

22 Q. And was it your intent, when you sent  
23 these out, for these to end up going out on the  
24 streets, for this to be carried out?

25 A. Yes, ma'am.

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1 Q. Now, and this was early 2015?

2 A. Yes, ma'am.

3 Q. And was that what you wanted done? You  
4 wanted Dwayne Santistevan and Gregg Marcantel  
5 killed?

6 A. Yes, ma'am.

7 Q. Now, at some point in 2015, did something  
8 happen where you went and decided -- you changed  
9 your mind as far as your own life?

10 A. That's correct.

11 Q. Okay. Tell us about that.

12 A. I just got tired. I just got tired. I've  
13 been doing this shit for over 30 years. And like I  
14 said, off and on throughout the years. The family  
15 has changed. The onda has changed. I mean, when I  
16 first came in, we were all close. I'm talking when  
17 Jerry Romero, a bunch of old-timers. When I was a  
18 youngster, the onda was -- had a lot of respect  
19 throughout the prison system and prison population  
20 and among the brothers. You didn't have any inner  
21 fighting with brothers. We were a family. If one  
22 of us needed help, the other was there to help you.

23 Q. And did --

24 A. And off and on throughout the years that  
25 changed, and it got to the point where you could be

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1 talking to one brother face-to-face, the way I'm  
2 looking at you now, and then as soon as you turn  
3 your back, I'm talking to this other brother and  
4 we're talking about killing you. And that's how it  
5 was. The last few years that I was in this family,  
6 that's how it was.

7 And when I renounced, I had struggled back  
8 and forth, wavered back and forth, should I or  
9 shouldn't I? Should I or shouldn't I? Because this  
10 is all I've known. This is my whole life. Prison  
11 has been my whole life.

12 Q. So you said you renounced?

13 A. I renounced.

14 Q. When did you renounce?

15 A. In May 2015.

16 Q. What did you do?

17 A. I just came in from the yard. And I told  
18 the CO, "Tell Wendy Perez" -- she's our unit manager  
19 at the North. I told the CO, "Tell Wendy Perez I  
20 want to talk to her."

21 And when they pulled me into her office,  
22 the Deputy Warden happened to be in there at that  
23 time. I just walked in and I told her, "I'm done."  
24 I told her, "I'm done. I want out."

25 Q. Did you give her anything?

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1       A.     Gave her a shank. I had a shank  
2 keistered, and I gave it to her.

3       Q.     So one day in May -- did you say what date  
4 it was? May 2015?

5       A.     May 2015.

6       Q.     Okay. You indicated you wanted to talk to  
7 Wendy Perez. Did she work with Corrections?

8       A.     She did. She was the unit manager.

9       Q.     Okay. And was she also a caseworker?  
10 Does that sound right? Unit manager, caseworker?

11      A.     She's unit manager. She oversees -- we  
12 have a case worker and we have a unit manager. She  
13 more or less oversees what the caseworker does.  
14 She's the one that refers you for release from the  
15 North, and that's -- she's more like the Main boss.

16      Q.     Did you feel comfortable going to her and  
17 renouncing to her?

18      A.     I did.

19      Q.     And you said that you went into her  
20 office, and you gave her your shank?

21      A.     Not right away. I mean, when I first went  
22 in, like I said, I told her -- I looked at her, and  
23 I told her, "I'm done. I'm tired of this and I want  
24 out." I looked at her, and I told her, "You know,  
25 there is no ulterior motives here. I'm tired. I

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1 want out."

2 Q. And what happened then?

3 A. There was a lieutenant in there with the  
4 Deputy Warden. And the lieutenant tells me, "Well,  
5 if you're going to do this, there are steps you're  
6 going to have to take."

7 And told him, "What are you talking  
8 about?"

9 He asked me right straight out, he says,  
10 "Where's the piece?" Because they knew I had a  
11 shank, but they couldn't find it.

12 Q. Okay.

13 A. He asked me, he said, "Where's the piece?"

14 I told him, "It's in me."

15 And he says, "Well, we're going to need  
16 that." And I gave it to him.

17 Q. And then did you have to subsequently talk  
18 to STIU?

19 A. I did.

20 Q. And did you, in fact, do that?

21 A. I did.

22 Q. And after that, were you subsequently  
23 moved?

24 A. They moved me from 3A to the other side of  
25 the facility, in 1A, where I was around nobody that

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1 I knew.

2 Q. And what was your -- you said that you  
3 were tired. Were there any other outside forces  
4 that made you do that? Meaning did anybody tell you  
5 you should do this? Did any law enforcement come up  
6 to you and say, you know, you should cooperate? Or  
7 was that something you did all on your own?

8 A. No, ma'am. Like I say, I had been  
9 struggling weeks prior to that. I had been wavering  
10 back forth: Should I? Shouldn't I? Should I?  
11 Shouldn't I? And then I says, "You know what? Fuck  
12 it. I'm out." And I did it myself.

13 Q. Now, while you were in with the SNM, I  
14 guess given that you wanted out, did you know that  
15 there might be consequences for your doing that?

16 A. I knew that right away, that given the  
17 opportunity, that they would move on me.

18 Q. So at some point in time, were you  
19 eventually contacted by the FBI that summer of 2015  
20 or that fall?

21 A. I was. I mean -- well, see, when I was  
22 moved, I was on disciplinary.

23 Q. Okay.

24 A. So I had to finish the two weeks'  
25 disciplinary. And see, at that time the deputy

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1 director of adult prisons had came to talk to me.

2 Q. And who was that?

3 A. His name is Anthony Romero. He pulled me  
4 into the office, and tells me, "I just came to see  
5 if what I'm hearing is true."

6 And I told him, "Yeah, it's true. I'm  
7 out. I'm tired."

8 And he was going to send me out of state.  
9 He was going to send me out of state.

10 So when I went back, I think it was, like,  
11 about a week later, that Wendy Perez came to me and  
12 had me sign paperwork to put me back on Level 6, to  
13 start my process of trying to send me out of state.  
14 And when she leaves the office, she tells me, "Well,  
15 STIU wants to talk to you."

16 So they came into the office. And the  
17 first thing they told me is, "They're coming for  
18 you."

19 I told them, "What are you talking about?"  
20 "The FBI, they're coming for you. No  
21 matter what you do, they're coming for you." He  
22 says, "Do you want to talk to them?"

23 And I kind of mentioned -- because there  
24 are other members, other brothers who had renounced,  
25 I mentioned to him, "Why didn't you approach

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1 Benjamin Clark, or why didn't you approach Tommy  
2 Valdez?"

3                   He goes because, "Because you're  
4 historical," because I've been in it for such a long  
5 time. "Yes or no, do you want to talk to them?"

6                   And I said, "Yes."

7 Q. And so then was that -- and then after  
8 that, did you eventually talk with the FBI?

9 A. I did.

10 Q. Now, were you eventually indicted in this  
11 case?

12 A. I was.

13 Q. Were you indicted also in a separate case  
14 with Mario Rodriguez for the Alex Sosoya incident?

15 A. I was for that one and a VICAR charge.

16 Q. Okay. VICAR being Violent Crime in Aid of  
17 Racketeering?

18 A. Yes, ma'am.

19 Q. Now, I'm going to show you Exhibit Number  
20 686 and 687, which I'm going to move to admit, Your  
21 Honor, without opposition.

22 THE COURT: Any defendant have an  
23 objection?

24 Not hearing any objection, Government's  
25 Exhibit 686 and 687 will be admitted into evidence.

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1 (Government Exhibit 686 and 687 admitted.)

2 | BY MS. ARMIJO:

3 Q. And if we could first go to 686, Mr.  
4 Martinez

5 A. Yes, ma'am.

6 Q. We're looking -- do you recognize this  
7 document? And if you can't see it, we're going to  
8 blow up here the first part of it.

A. That's my plea agreement.

10 Q. And does it have the two case numbers on  
11 top for the two different cases that you were  
12 facing?

13 A. Yes, ma'am.

14 Q. Then I'm going to go to the second page.  
15 All right. And does that indicate that in one case  
16 you were pleading guilty to Counts 9 and 10, which  
17 were violent crimes in aid of racketeering for the  
18 conspiracy to murder, and that would be in reference  
19 to Gregg Marcantel and Dwayne Santistevan?

20 A. Yes, ma'am.

Q. And then in the other case, did you plead guilty to conspiracy to murder and assault resulting in serious bodily injury and assault with a dangerous weapon?

25 A. I did.

1 Q. And is that the crimes that you committed  
2 with Mario Rodriguez on Alex Sosoya?

3 A. Yes, ma'am.

4 Q. Let me ask you, did you also sign an  
5 addendum? If we can go to 687, did you also sign an  
6 addendum that indicates that should you testify  
7 truthfully, that the United States may move for a  
8 reduction in your sentence?

9 A. Yes, ma'am.

10 Q. All right. And is there any agreement  
11 that you have with the United States as to what your  
12 sentence should be?

13 A. No, ma'am.

14 Q. Given the amount of -- and your state time  
15 that you have, I believe we indicated it's a little  
16 bit over 30 years still before you're  
17 parole-eligible, possibly?

18 A. My state time will exceed my federal time.

19 Q. So I guess you really don't want the  
20 United States, then, to try and reduce your time  
21 if --

22 A. I mean, I can still get out, but I'll be  
23 in my late 80s, I mean, what, another 30-something  
24 years.

25 Q. And have you been signed up as an FBI

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1 confidential human source?

2 A. I have.

3 Q. And as part of that, do they give you  
4 money on your books quarterly?

5 A. They do.

6 Q. And did you receive your tablet?

7 A. I did.

8 Q. You still have your tablet?

9 A. I do.

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1 Q. Did you partake in any of the activities  
2 which would enable you to use the internet?

3 A. No, ma'am.

4 Q. Your tablet -- you can still look at the  
5 discovery and you still have access to it?

6 A. Yes, ma'am.

7 MS. ARMIJO: If I may just have a moment,  
8 Your Honor.

9 THE COURT: You may.

10 MS. ARMIJO: No further questions.

11 THE COURT: Thank you, Ms. Armijo.

12 Ms. Duncan, do you have cross-examination  
13 of Mr. Martinez?

14 MS. DUNCAN: I do, Your Honor.

15 THE COURT: Ms. Duncan.

16 CROSS-EXAMINATION

17 BY MS. DUNCAN:

18 Q. Good afternoon, Mr. Martinez.

19 A. Good afternoon.

20 Q. You testified on direct that Mr. Baca put  
21 a hit on Dwayne Santistevan; correct?

22 A. Yes, ma'am.

23 Q. And that that hit existed before the hit  
24 on Gregg Marcantel?

25 A. Yes, ma'am.

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1 Q. You learned about this alleged hit on  
2 Dwayne Santistevan from Eric Duran; correct?

3 A. Yes, ma'am, that's true.

4 Q. You did not hear about it from Anthony  
5 Baca?

6 A. No, ma'am, I did not.

7 Q. And Eric Duran first told you about this  
8 alleged hit in 2015; correct?

9 A. That's correct.

10 Q. Around the time that he was talking to you  
11 about bringing the SNM back to its former glory;  
12 correct?

13 A. I don't think he used the words "former  
14 glory," but I know he told me about the hit on  
15 Dwayne Santistevan.

16 Q. Sort of establishing the presence of the  
17 onda is one of his purposes; correct?

18 A. He never said that to me.

19 Q. And Eric Duran is the one who told you  
20 about this alleged comment Mr. Santistevan had made  
21 about he couldn't sleep at night because of Mr.  
22 Baca. Correct?

23 A. That's true.

24 Q. So is it fair to say that everything you  
25 know about this alleged hit Mr. Baca put on Dwayne

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1 Santistevan came from Eric Duran?

2 A. That's true.

3 Q. I would like to go back a little bit to  
4 your testimony about when you first got into PNM  
5 back, I think you said, 1983.

6 A. Yes, ma'am.

7 Q. And how old were you at that time?

8 A. I was 18.

9 Q. And that was -- 1983 was just a few years  
10 after the prison riots; correct?

11 A. That's correct.

12 Q. And the PNM Main was still a pretty  
13 dangerous place, wasn't it?

14 A. I didn't -- I started my time in '83 here  
15 in Southern. I came to Southern first. I did 1984,  
16 1985 here in Southern. Then I went to the North  
17 facility. I mean, then I got sent to Santa Fe. I  
18 had to go to the North facility to do a month first,  
19 then I went to the line.

20 Q. And when you got -- so when you went to  
21 the line, would you say that PNM main was a somewhat  
22 dangerous place?

23 A. I would say that.

24 Q. And there were other inmates there who  
25 took you under their wing; correct?

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1       A. Well, I mean, I wouldn't say they -- well,  
2 give me schooling. I guess you could say that, that  
3 they schooled me.

4       Q. And looked out for you a little bit?

5       A. In a way, yeah.

6       Q. Was one of those people known as Old Dan  
7 Dan?

8       A. That's true.

9       Q. Do you know Old Dan Dan's real name?

10      A. Daniel Sanchez.

11      Q. And did he have a nickname for you, Old  
12 Dan Dan?

13      A. I don't ever remember him giving me a  
14 nickname.

15      Q. Do you remember him calling you chavalon?

16      A. I was never his chavalon.

17      Q. How about Pat Esquibel?

18      A. His name is Pate Esquibel. I know him,  
19 too. He's another old-timer.

20      Q. Is he someone who took you under their  
21 wing, looked out for you?

22      A. When I hit the Main facility, I was like  
23 21; 20, 21 years old. And I ran with the older  
24 convicts, and Dan Dan, Daniel Sanchez, and Pate  
25 Esquibel were two of them. They schooled me.

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1 Q. And we're talking the old Dan Dan, not  
2 this Mr. Sanchez?

3 A. That's true.

4 Q. And in those early days, would you agree  
5 that people within the SNM looked out for each  
6 other?

7 A. That's true.

8 Q. And to be vulnerable in prison was  
9 dangerous; correct?

10 A. Predator or prey. That's what prison life  
11 is about. You're either going to be the predator or  
12 you're going to be the prey.

13 Q. And if you have a family or friends with  
14 you, then you're more safe than if you walk alone;  
15 correct?

16 A. I would say that's true.

17 Q. And you also talked about disrespect as an  
18 SNM member, and that it could be a problem, that you  
19 had to stand up for yourself so you wouldn't seem  
20 weak. Do you remember that?

21 A. That's true.

22 Q. Isn't that true for all inmates, that  
23 being seen as weak puts you in danger?

24 A. I would say that's true, too.

25 Q. I'd like to go back to the alleged hit on

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1 Dwayne Santistevan and Gregg Marcantel. Now, at the  
2 time that you were having this discussion with Eric  
3 Duran and Roy Martinez, your primary goal was to go  
4 out of state; correct?

5 A. I wanted to go out of state, yes.

6 Q. And you had sent a letter out that was  
7 intercepted by STIU; correct?

8 A. I don't know what letter you're talking  
9 about.

10 Q. You had this idea about hitting Gregg  
11 Marcantel, and you wanted the administration to find  
12 out about it because they would ship you out of  
13 state.

14 A. That wasn't the letter.

15 I mean, they moved us from unit -- Housing  
16 Unit 3A to 3B, in, like -- right after the holidays,  
17 2014, early 2015, they moved us from Housing Unit 3A  
18 to 3B.

19 And at that time, STIU was pulling us into  
20 Wendy Perez' office at that time, I guess to see how  
21 we were or see where our frame of mind was at. And  
22 as I was leaving the office -- because at that time  
23 I did want to go out of state. I mean, they were  
24 keeping us locked down for a year or two. I wanted  
25 to go out of state. And when I was in the office,

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1 when I was getting ready to leave the office, I  
2 leaned over, as I was getting ready to leave, I told  
3 them, "I was going to say something, but never  
4 mind."

5                   But STIU Myers said, "Go ahead and say  
6 it."

7                   I looked at him and I told him I was going  
8 to make it my mission in life to see that  
9 motherfucker in a pine box.

10                  And he tells me, "What motherfucker?"

11                  And I told him, "Gregg Marcantel." And  
12 then I left the office.

13                  And my whole purpose in putting that  
14 message out there was to push administration's  
15 hands, to push the issue with administration so they  
16 could send me out of state. And that was the whole  
17 reason behind that.

18                  Q. Thank for you clarifying that.

19                  A. Okay.

20                  Q. So that's something that you -- when you  
21 were talking with Eric Duran and Roy Martinez about  
22 this plot against Gregg Marcantel, you discussed  
23 that conversation you had had with STIU; correct?

24                  A. It was around the same time, yes, that's  
25 true.

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1 Q. And you and Roy kind of argued about it;  
2 correct?

3 A. We did.

4 Q. Roy's whole purpose -- Roy was very  
5 serious about the hit, making a hit on Gregg  
6 Marcantel; correct?

7 A. Well, Roy wanted to go out of state, as  
8 well. And I was just as serious about it as he was.

9 Q. Now, you said that you have the tablet in  
10 this case with the discovery?

11 A. Yes.

12 Q. And that tablet contains recordings that  
13 Eric Duran made of your conversations with him and  
14 with Roy Martinez; correct?

15 A. That's true.

16 Q. Have you listened to those recordings?

17 A. I have.

18 Q. And those recordings -- are they true and  
19 accurate representations of conversations you had  
20 with Eric Duran and Roy Martinez?

21 A. I didn't listen to Roy's. I listened to  
22 mine.

23 Q. Did you listen to a conversation in which  
24 you were talking to Mr. Martinez and Mr. Duran about  
25 wanting to go out of state?

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1       A. I do. I told him to, "Shut the fuck up."  
2 Because Eric Duran lived between us. And Roy  
3 Martinez lived on one side of him, and I lived on  
4 the other side of him. And this was when I came  
5 back from the office, after throwing that comment  
6 out there, and Eric Duran was living in between us  
7 and we're trying -- and we're both talking to him at  
8 the same time. That's when I tell Eric to tell Roy,  
9 "Tell him to 'Shut the fuck up.' "

10     Q. And why were you telling Mr. Martinez to  
11 shut up?

12     A. Because I was trying to say something.

13     Q. Okay. Fair enough.

14             (Laughter).

15     MS. DUNCAN: Your Honor, at this time I  
16 would move admission of Defendants' Exhibit Z16.

17     THE COURT: Any objection, Ms. Armijo?

18     MS. ARMIJO: No, Your Honor.

19     THE COURT: All right. Any other  
20 defendant?

21     MR. JEWKES: No, Your Honor.

22     THE COURT: Not hearing any objection,  
23 Defendants' Exhibit Z16 will be admitted into  
24 evidence.

25

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1 (Defendants' Exhibit Z16 admitted.)

2 BY MS. DUNCAN:

3 Q. And Mr. Martinez, I will represent to you  
4 this is a recording of a conversation that you had  
5 with Roy Martinez and Eric Duran at PNM.

6 | A. Okay.

7 Q. And can you tell us, before we play it,  
8 when the three of you were talking, where were you?

A. We were in our cells. We were in X pod.

10 Roy lived in x2. Eric was in x3. I was in x4.

11 Q. So Eric Duran was in the middle?

12 A. Yes, ma'am.

13 Q. So when the three of you were talking,  
14 would Eric Duran sort of repeat what you said to Roy  
15 so he could hear it?

A. Sometimes, that's true.

17 Q. Was it difficult for you and Roy to hear  
18 each other directly?

A. I couldn't hear him. He was too far away.

20 Q. And how were you communicating with Mr.  
21 Duran?

A. We were talking underneath our bunk.

Q. Was that through vents?

24 A. A heater; they have a heater underneath  
25 the bunk, and we would talk through that.

1 MS. DUNCAN: If we could start playing --  
2 Your Honor, just a moment. Your Honor, we did have  
3 the wrong -- so I would withdraw Z16, and instead,  
4 move the admission of Y1.

5 THE COURT: All right. Any objection to  
6 the withdrawal of Z16?

7 MS. ARMIJO: No, Your Honor.

8 MR. VILLA: Your Honor, I would just say I  
9 believe Z16 was identified as a call that was played  
10 for Tim Martinez. I don't object to the withdrawal.  
11 Just so the record is clear, that's what that was.

12 THE COURT: Was it played?

13 MR. VILLA: It was played, Your Honor. It  
14 wasn't admitted, but it was played.

15 THE COURT: So Z16 will be withdrawn.

16 (Defendants' Exhibit Z16 withdrawn.)

17 THE COURT: And what's the new exhibit,  
18 Ms. Duncan?

19 MS. DUNCAN: Y1, Your Honor.

20 THE COURT: Any objection to that, Ms.  
21 Armijo?

22 MS. ARMIJO: No, Your Honor.

23 THE COURT: Anybody else have an  
24 objection?

25 Defendants' Exhibit Y1 will be admitted

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1 into evidence.

2 (Defendants' Exhibit Y1 admitted.)

3 (Tape played.)

4 BY MS. DUNCAN:

5 Q. Who is speaking there?

6 A. That's Eric Duran.

7 Q. And when he says -- he said that you guys  
8 put out the hits but the primary goal is to try to  
9 keep it a secret, who is he talking about?

10 A. Are you talking about the hits?

11 Q. Well, I believe that Mr. Duran just said,  
12 "He said that you guys put out the hits, but the  
13 primary goal is to try to keep it a secret, and not  
14 really tell them on you guys." Is he talking about  
15 Roy Martinez?

16 A. He's talking about administration. He  
17 doesn't want administration to get wind of it.

18 Q. And who is "he" in that? Roy Martinez  
19 doesn't want the administration to get wind of it;  
20 correct?

21 A. Correct.

22 Q. Thank you. Keep playing.

23 (Tape played.)

24 MS. DUNCAN: Is everyone able to hear  
25 this? I can put a transcript down.

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1 Q. Are you able to hear it, Mr. Martinez?

2 A. I can hear. It's kind of hard, but I can  
3 hear it a little bit.

4 (Tape played.)

5 Q. Again, who is that speaking?

6 A. That's me talking.

7 (Tape played.)

8 Q. So there you said, "Hey, tell him I  
9 thought his priority was to try to get shipped out."

10 A. Because at that time he and I were  
11 discussing getting sent out, trying to get  
12 administration to send us out of state. Because,  
13 like I say, Gregg Marcantel had had us all locked up  
14 for over a year, and we didn't know how long he was  
15 going to keep us locked up. So we had both talked  
16 about it in the yard, about trying to push the issue  
17 with administration.

18 Q. And so making this threat against Mr.  
19 Marcantel is a way to get yourself shipped out of  
20 state?

21 A. Okay. We wanted him hit. But, yes, that  
22 is a way for that to happen. But if we can  
23 successfully get that done, then so be it.

24 Q. So you wanted both things?

25 A. Correct.

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1 Q. Who is that last voice we heard right  
2 before Eric Duran said "What is"? Is that Roy  
3 Martinez?

4 A. I'd have to hear it again.

5 Q. Play it again.

6 (Tape played.)

7 A. That's my voice.

8 Q. That's your voice?

9 A. Yes, ma'am.

10 Q. That last voice, "That's the primary  
11 goal" -- is that Roy Martinez?

12 A. Yes, ma'am.

13 Q. Okay. Keep going.

14 (Tape played.)

15 Q. So there you said, "I thought he wanted to  
16 go out of state." Were you referring to Roy  
17 Martinez?

18 A. Yes, ma'am.

19 Q. And is Roy Martinez also known as Shadow?

20 A. Yes, ma'am.

21 Q. Thank you.

22 (Tape played.)

23 Q. Right there you said, "Come on, come on,  
24 you and I know damn well that's not going to  
25 happen."

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1                   What did you mean there?

2                   A.     That the ones who would really step up to  
3 do that -- I mean, when all that came about and we  
4 were talking about it, I threw that comment out  
5 there, because -- how should I word this -- within  
6 our family there is -- within our family I'd say  
7 there's a handful that had the balls to actually do  
8 that, who would actually do that. And to me, when I  
9 threw that comment out there, that's what I was  
10 referring to. Because half of our brothers -- to  
11 me, half of our brothers aren't worth a fuck.  
12 They're weak; haven't busted a grape. And the ones  
13 who would step up and be willing to do that were  
14 locked up.

15                   (Tape played.)

16                   Q.     Right. I think you said, "I hope that the  
17 administration can get wind of it. That way they  
18 can come and" -- is that correct?

19                   A.     I don't think I said that. That I hope  
20 administration gets wind of it?

21                   Q.     We can go back.

22                   A.     I don't think I said that.

23                   Q.     So there I think you said, "What better  
24 way to get shipped out of state then go in there and  
25 tell them, 'Hey, look, I'm going to make this my

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1 sole mission in life.'" That's what you said in the  
2 meeting with STIU; correct?

3 A. That's true.

4 Q. And this wasn't the first time that you  
5 had tried to use a disciplinary infraction to get  
6 yourself moved from one facility to another;  
7 correct?

8 A. I don't know what you're talking about.

9 Q. Was there a point when you were in  
10 Southern New Mexico Correctional Facility with  
11 Gerald Archuleta?

12 A. You're talking in -- off and on throughout  
13 the years.

14 Q. And was there a point when you and Mr.  
15 Archuleta were in Southern New Mexico Correctional  
16 Facility together, and you wanted to get back to  
17 PNM?

18 A. I think that was in -- that's true, I  
19 think that was -- if I'm correct, I think that was  
20 in '96.

21 Q. And so the two of you decided that you  
22 would attack another inmate in the hope that you  
23 would then be sent up to Seg, which is in PNM;  
24 correct?

25 A. That's true.

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1 Q. And the first inmate that you targeted --  
2 there were three of you who targeted the inmate;  
3 correct?

4 A. That's true.

5 Q. It was you, Mr. Archuleta, and who else?

6 A. His name was Jesse Trujillo. They called  
7 him Terminator.

8 Q. And so what did you do -- so who is the  
9 inmate you targeted?

10 A. I didn't know who he was. Us three were  
11 walking the yard. Us three wanted to get sent back  
12 to Santa Fe. We were walking the yard. And I don't  
13 know who the guy was, but Jesse Trujillo said that  
14 he had some kind of sex crime. So we attacked him.  
15 And Jesse Trujillo was the only one that got caught  
16 in that incident, and Gerald and I got away.

17 They had a softball game in the yard that  
18 day, and we were picking out other victims. And  
19 Gerald -- there was some white boy that Gerald had  
20 bumped heads with. And I told Gerald, "Let's just  
21 pick up that baseball bat and whack him across the  
22 head."

23 Gerald said, "No, I don't want to kill  
24 him. I just want to go back to Santa Fe."

25 So we just ended up assaulting him.

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1 Q. And when that didn't work, when you and  
2 Mr. Archuleta were not shipped to Santa Fe, did  
3 you --

4 A. We were.

5 Q. You were later shipped to Santa Fe?

6 A. Within a day or two.

7 Q. Of that initial assault?

8 A. Yes, ma'am.

9 Q. You were housed with Mr. Baca in the  
10 1990s; correct?

11 A. The last time I was housed -- I mean, the  
12 last time I was in the same facility as -- last time  
13 I can remember being with Pup was in -- about a year  
14 before they shut the Main facility down. I had got  
15 out of the North first, and he got out after me. He  
16 was living in cell block 6, and I was living in cell  
17 block 3.

18 That's the last time I can remember,  
19 because that's when they had an incident in cell  
20 block 5, where a couple of white boys moved on three  
21 of our brothers. They locked the facility down.  
22 The administration ended up locking all SNM down.  
23 Pup got sent out of state. I got sent back to the  
24 North. So the last time I can remember being in the  
25 same facility or being around him is a year -- I'd

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1 say '96, '97, right before they shut the Old Main  
2 facility down.

3 MS. DUNCAN: May I have a moment, Your  
4 Honor?

5 THE COURT: You may.

6 MS. DUNCAN: No further questions.

7 THE COURT: Thank you, Ms. Duncan.

8 Mr. Maynard, do you have cross-examination  
9 of Mr. Martinez?

10 MR. MAYNARD: Yes, Your Honor.

11 THE COURT: Mr. Maynard.

12 CROSS-EXAMINATION

13 BY MR. MAYNARD:

14 Q. Mr. Martinez, I'd like to just clarify a  
15 few points for the jury.

16 A. Okay.

17 Q. Going over your direct examination earlier  
18 this afternoon and the cross-examination, you  
19 mentioned at one point in response to a question  
20 from Ms. Duncan that in the prison system you're  
21 either a predator or you're prey. Do you remember  
22 that?

23 A. I do.

24 Q. You do?

25 A. Yeah.

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1 Q. And what do you mean by that?

2 A. I mean, in prison somebody who is weak,  
3 somebody who doesn't stand up for themselves,  
4 they're taken advantage of a number of different  
5 ways. They can be sexually assaulted, they can have  
6 their commissary taken, make them pay rent.

7 Q. Extortion?

8 A. Yeah, extortion.

9 Q. Right. Now, you also mentioned -- if I  
10 heard correctly, you mentioned that half of the  
11 brothers are weak. Were you referring to brothers  
12 in the SNM or in a particular gang or organization?

13 A. SNM.

14 Q. SNM. So what do those half who are weak  
15 do between predator and prey?

16 A. I mean, because like I was telling Ms.  
17 Armijo earlier, off and on throughout the years, the  
18 SNM has changed. When I first came in '88,  
19 throughout the '90s, into the early 2000s, we were  
20 solid. You knew who your brother was. You knew you  
21 could count on him to have your back if something  
22 went down.

23 Q. Well --

24 A. But throughout the years, late 2000s, late  
25 2000s that changed. You didn't know who -- you

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1 didn't know who your brother was.

2 Q. Well, so do you mean that, back then, all  
3 the SNM members were predators? There were no prey?

4 A. What I mean -- I used the word solid. In  
5 other words, you knew you can trust him, that he  
6 wasn't going to go rat on you, or if something  
7 happened, he wouldn't turn around and run the other  
8 way.

9 Q. So it was different in the sense that  
10 there was more trust?

11 A. True, true.

12 Q. But so you have a situation where instead  
13 of having predator or prey, you have half the people  
14 who are somewhere in between; they're weak, but they  
15 may not be prey, or they may not be predators?

16 A. I mean, what are you talking? I don't  
17 know what you're talking about.

18 Q. Well, I'm just trying to get clarification  
19 of where those half who are weak stand. Are they  
20 predators, or do they become prey?

21 A. I mean, because, look, like I said, in the  
22 later years, a person could become -- a person could  
23 become a brother, a carnal, just because you had a  
24 family member who was in the family, or because you  
25 hit -- or because you brought a lot of drugs, you

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1 were automatically made a carnal.

2           And when I came in, you had to earn your  
3 bones in order to become a carnal. In other words,  
4 you had to spill blood in order to come in.

5           In the later years, that --

6       Q.    You didn't have to earn your bones.

7       A.    They didn't have to do that. They could  
8 either get drugs, or because they had a family  
9 member that was a carnal, they were automatically a  
10 carnal.

11      Q.    I understand.

12           THE COURT: Mr. Maynard, what I'm  
13 proposing is we take about a 15-minute break, and  
14 come back and go about a half-hour. Does that work  
15 for you?

16           MR. MAYNARD: That's fine.

17           THE COURT: All right. We'll be in recess  
18 about 15 minutes. All rise.

19                   (The jury left the courtroom.)

20           THE COURT: All right. We'll be in recess  
21 for about 15 minutes.

22                   (Court stood in recess.)

23           THE COURT: All right. We'll go on the  
24 record here. Anything we need to discuss before Ms.  
25 Standridge brings in the jury?

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1 MS. ARMIJO: No, Your Honor.

2 THE COURT: Mr. Maynard, do you have  
3 anything to discuss?

4 MR. MAYNARD: Just a little cross.

5 THE COURT: All right. How about any of  
6 the other defendants? Anything they need to  
7 discuss?

8 MR. BECK: Your Honor, did you look over  
9 Government's --

10 THE COURT: Oh, yeah, I did. Well, the  
11 transcript, I think, helps you in ways that you  
12 don't need help on. I think it makes it look like  
13 Mr. Baca killed Mr. Velasquez because Mr. Velasquez  
14 disrespected Mr. Baca. I think it also establishes  
15 that he didn't act alone. But I still don't see  
16 anything in here about SNM orders or SNM requiring  
17 the hit.

18 Give me just a few seconds here. Let me  
19 finish up and tell you my thoughts, then you can  
20 argue it out a little later. It might have  
21 incidentally bolstered the SNM's reputation. I'll  
22 agree with you that the murder may have bolstered  
23 the SNM's reputation as a powerful and violent gang.  
24 But again, I think that shows the relevance of it.  
25 But I don't think that it makes the murder an SNM

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1 hit. And so I'm still not seeing the evidence  
2 that's necessary to get you to that point and the  
3 jury get to that point. It's just sticking it out  
4 there and hoping they'll connect the dots, and I'm a  
5 little worried about that.

6 MR. BECK: What we've got in that  
7 conversation --

8 THE COURT: Let me do this: Let me let  
9 you argue it out another time. But you did ask, and  
10 I read it, and those are my thoughts. All rise.

11 (The jury entered the courtroom.)

12 THE COURT: All right. Mr. Martinez, I'll  
13 remind you that you're still under oath.

14 Mr. Maynard, if you wish to continue your  
15 cross-examination, you may do so at this time.

16 MR. MAYNARD: Thank you, Your Honor.

17 BY MR. MAYNARD:

18 Q. Just a few questions. Mr. Martinez, I  
19 want to move forward a little bit, I don't know  
20 exactly, around 2011, 2012, 2013. You mentioned in  
21 answer to some questions a moment ago or half an  
22 hour ago you were discussing Javier Molina, and you  
23 were together with Mario Rodriguez and Lupe Urquiza.

24 A. Yes, sir.

25 Q. And were you discussing some paperwork or

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1 rumors of paperwork?

2 A. I don't think we were discussing  
3 paperwork. I mean, I think it was -- all of us  
4 understood that the paperwork had been out there, or  
5 the rumor that the paperwork had been out there for  
6 at least a year. We were discussing that if either  
7 one of us, or any of us four were to go to Southern,  
8 we were supposed to take care of it.

9 Q. And by "take care of it," you mean the  
10 three of you decided to order -- basically issue a  
11 hit, as they call it?

12 A. Yes, sir.

13 Q. Okay. And you were up north at the time,  
14 the three of you?

15 A. Yes, sir.

16 Q. And in PNM North or South?

17 A. I was at the South.

18 Q. Near Santa Fe?

19 A. Yeah.

20 Q. And at that time, Mr. Molina was in  
21 Southern, down here near Las Cruces?

22 A. He was.

23 Q. So the three of you made that decision  
24 sometime in 2012 or 2013, maybe -- the timing is not  
25 critical -- but the three of you made that decision

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1 together?

2 A. I think the hit on him was -- had been out  
3 there for a year prior to it actually happening.

4 Q. Well, the three of you made the decision  
5 to endorse that, if it was already out?

6 A. That's true.

7 Q. And sometime later Mario Rodriguez was  
8 transferred south?

9 A. That's true.

10 MR. MAYNARD: That's all, Your Honor.

11 THE COURT: Thank you, Mr. Maynard.

12 Anyone else? Mr. Villa?

13 MR. VILLA: Yes, Your Honor, briefly.

14 THE COURT: Mr. Villa.

15 CROSS-EXAMINATION

16 BY MR. VILLA:

17 Q. Can we see Government's 586. It's already  
18 been admitted.

19 Good afternoon, Mr. Martinez.

20 A. Good afternoon.

21 Q. I'm showing you Government's Exhibit 586.  
22 That's Mario Rodriguez; right?

23 A. Yes, sir.

24 Q. And this is the individual that you just  
25 were talking to Mr. Maynard about; you had a

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1 conversation with him in 2013, along with Lupe  
2 Urquizo and Mauricio Varela; correct?

3 A. That's true.

4 Q. That conversation took place in Santa Fe  
5 at PNM?

6 A. PNM South, South facility.

7 Q. And the four of you agreed that whoever  
8 got to the South first would take care of Javier  
9 Molina?

10 A. That's true.

11 Q. Meaning kill him?

12 A. True.

13 Q. And that was based on, as you just said,  
14 this discussion about a rumor that there was  
15 paperwork on Mr. Molina?

16 A. That's true.

17 Q. Paperwork that he had informed to law  
18 enforcement?

19 A. That -- yeah, true, that's true.

20 Q. So based on that rumor, you all came to  
21 this agreement, this understanding?

22 A. Well, the rumor was that the paperwork had  
23 been down there a year before; that it had been  
24 given to three brothers: Benjamin Clark; they call  
25 him Cyclone. BB, Javier Rubio. And they call him

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1 Little Cruces -- I don't know his real name. That  
2 they had got ahold of the paperwork a year prior to  
3 that, but that they sat on it and nothing was ever  
4 done.

5 Q. This is the rumor that you all were  
6 discussing?

7 A. We didn't discuss that. But we discussed  
8 that if either of us four showed up in Las Cruces,  
9 that we would make sure it was taken care of.

10 Q. Got it. And Mario Rodriguez, who we're  
11 seeing here on Government's 586 -- that's the same  
12 Mario Rodriguez that attacked Alex Sosoya with you;  
13 correct?

14 A. That's true.

15 Q. I think it was your testimony that  
16 occurred, like, in 2011; right?

17 A. 2011.

18 Q. And you said you went up on the top tier,  
19 because that's where you were, and went to each of  
20 the other brothers up there and said, "I'll take  
21 care of this. Back off."

22 And all of them said, "Okay," except Mario  
23 Rodriguez?

24 A. That's true.

25 Q. Mario wanted to help?

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1 A. That's true.

2 Q. He did help?

3 A. That's true.

4 Q. You told us that when you were out in the  
5 yard at PNM South, that's where the attack on Sosoya  
6 occurred; correct?

7 A. Yes, sir.

8 Q. Isn't it true that the plan that you and  
9 Mario came up with to attack Sosoya was, you wanted  
10 to wear him down on the basketball court, get him  
11 tired first, then attack him?

12 A. I don't think that was our plan. I mean,  
13 we were going to move on him, I mean, but we didn't  
14 discuss, "Hey, let's play basketball, get him tired,  
15 then we'll hit him." We didn't discuss that. We  
16 discussed, "When we go to the yard, we'll move on  
17 him."

18 Q. And Mario moved first?

19 A. He did.

20 Q. He went after him first?

21 A. He did.

22 Q. You guys got into this fight and it got to  
23 the point that they're shooting teargas at you;  
24 right?

25 A. That's true.

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1       Q. I think you said you got hit in the head  
2 with the gas can?

3       A. That's true.

4       Q. So that pretty much took you out of the  
5 fight?

6       A. It did.

7       Q. But Mario Rodriguez kept fighting;  
8 correct?

9       A. He was choking him out.

10      Q. He was choking Mr. Sosoya?

11      A. Yeah, he was choking him out. Yeah, he  
12 was wrapped around him.

13      Q. I think Ms. Armijo asked you if you saw  
14 Mario bite Mr. Sosoya's ear off. And you said you  
15 didn't.

16      A. I didn't see that. The gas had hit me, so  
17 I didn't see anything after that.

18      Q. You heard about it later?

19      A. Yeah. When the State Police showed up at  
20 the hospital and asked me about it.

21      Q. Did you ever hear Mario Rodriguez bragging  
22 about biting his ear off?

23      A. No.

24      Q. Now, you would agree with me that one of  
25 the charges you pled guilty to in this case in your

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1       plea agreement was for the assault on Mr. Sosoya?

2           A.    That's true.

3           Q.    Mario Rodriguez was included in that  
4 indictment?

5           A.    That's true.

6           Q.    You had agreed to cooperate and testify  
7 against Mario Rodriguez, didn't you?

8           A.    That's true.

9           Q.    And in fact, the trial was going to be  
10   scheduled, I think, in October of last year, maybe  
11   early November last year; right?

12          A.    I don't know about that, but I know it was  
13   supposed to take place here just recently.

14          Q.    Not long ago?

15          A.    Yeah, not long, about a couple months.

16          Q.    And right before that trial, Mario  
17   Rodriguez went to work for the Government and  
18   entered a plea agreement himself; right?

19          A.    That's true.

20          Q.    So you didn't have to testify against him?

21          A.    I didn't.

22          Q.    But you were going to?

23          A.    I was.

24          Q.    At the time of the 2011 hit on Sosoya, you  
25   were a shot-caller; right?

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1 A. I was.

2 Q. Meaning if you called a shot, if you said,  
3 "Hit somebody," it had to get done?

4 A. True. That's usually how it works.

5 Q. And the point, at least before Sosoya,  
6 before the Sosoya assault, Mario Rodriguez -- he  
7 wasn't a shot-caller yet, was he?

8 A. Mario has never been a shot-caller.

9 Q. He never ran the pod at any point in time?

10 A. He's a soldier.

11 Q. As far as you know.

12 A. He's a soldier.

13 Q. And a soldier's job is, if the shot-caller  
14 tells them what to do, they do it?

15 A. True.

16 Q. Before you're a shot-caller, you start off  
17 as a soldier; right?

18 A. That's usually the way it works. But in  
19 my case, being a shot-caller, I wouldn't tell  
20 anybody to do something I wouldn't do myself. The  
21 only time I would do that is if a carnal was in a  
22 position to do it and I wasn't. If I was there, I  
23 would tell him, "Hey, come on, let's go," or, "Hey,  
24 watch my back," or, "Hey, I want to do this by  
25 myself." That's how I worked.

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1           Q. If somebody like Mario Rodriguez, as a  
2 soldier, wanted to work themselves up to becoming a  
3 shot-caller, they'd have to put in work; right?  
4           A. That's true.

5           Q. And elevate their reputation in the S?

6           A. That's true.

7           Q. You testified, I think, at the beginning  
8 of your direct examination that one of the rules or  
9 one of the issues y'all deal with is somebody who is  
10 a sex offender; right?

11          A. I said that?

12          Q. Sex offender -- they can't be in the SNM?

13          A. Rapists or child molesters.

14          Q. Rapists or child molesters?

15          A. Rapists or child molesters.

16          Q. And I mean, that's generally true in  
17 prison; right? If someone is a rapist or a child  
18 molester, they can be attacked, whether it's a gang  
19 or not; right?

20          A. Say that again.

21          Q. I mean, isn't that generally true in  
22 prison, that folks who are rapists or child  
23 molesters are in danger of being attacked?

24          A. That's usually how it works.

25          Q. Did you know that Mario Rodriguez had a

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1 sex offense for a rape?

2 A. I did.

3 Q. And that would make it harder for him to  
4 become a leader in the SNM, wouldn't it?

5 A. I don't know. That's kind of hard to  
6 answer. I would have to say -- well, I mean,  
7 because I know him, and I would consider him to be  
8 one of the best soldiers we have, because he  
9 wouldn't hesitate to pick up a knife and stab  
10 somebody, or try to take somebody out. He wasn't  
11 scared to do that.

12 And like I mentioned earlier, 90 -- I'd  
13 say 75 percent of our brothers have never done that,  
14 and wouldn't do that. He was one that wouldn't  
15 hesitate. So I mean, if we were still in the SNM,  
16 and he was continuing to put in work, and he wanted  
17 to become a shot-caller, I'd back him.

18 Q. You'd back him because of what you just  
19 said: He wouldn't hesitate to pick up a shank and  
20 stab somebody?

21 A. Sure.

22 Q. And he was tough; right?

23 A. True.

24 Q. Wasn't afraid of violence?

25 A. True.

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1           Q.     And your view of him, though, might not be  
2 the same as others in the SNM, because he has a sex  
3 offense; right?

4           A.     That might be true, too.

5           MR. VILLA:   That's all the questions I  
6 have, Judge.

7           THE COURT:   Thank you, Mr. Villa.

8           Ms. Jacks?   Mr. Jewkes?

9           MR. JEWKES:   We have no questions.

10          THE COURT:   Ms. Armijo, do you have  
11 redirect of Mr. Martinez?

12                    REDIRECT EXAMINATION

13 BY MS. ARMIJO:

14          Q.     Just for clarification, you talked about  
15 an old Dan Dan. That is a different person from the  
16 Dan Dan that you referred to in court today?

17          A.     Yes, ma'am.

18          Q.     And when you were talking -- let's see,  
19 Eric Duran -- Ms. Duncan was talking to you about  
20 Eric Duran, and even played a phone call -- not a  
21 phone call, a recording -- between you and Shadow,  
22 Roy Martinez, and Eric Duran. When that recording  
23 was made, were you aware that you were being  
24 recorded?

25          A.     I didn't.

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1 Q. Were you aware that Eric Duran was working  
2 with law enforcement?

3 A. I didn't. Had I have known that, I would  
4 have tried to kill him.

5 Q. Was Eric Duran a leader in the SNM?

6 A. No.

7 Q. What was his position, if any?

8 A. He got dope. That's all he ever did.

9 Q. Was get dope?

10 A. Yeah.

11 Q. You talked a little bit about different  
12 people -- I guess times changing, people used to  
13 always have to earn their bones; is that right?

14 A. Yeah.

15 Q. And then you talked about how there are  
16 some SNM members who just got a lot of drugs. Is  
17 that true?

18 A. True. I mean, like I said, 99.9 percent  
19 of us are all dope fiends, and just because somebody  
20 hit a clavo, brought drugs in through the visits, we  
21 would make them a carnal.

22 Q. Chris Garcia -- is he an SNM member?

23 A. He is.

24 Q. And what was his value to SNM?

25 A. Dope.

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1       Q. Now, you talk a lot about old school, so  
2 to speak. And we talked about how many years, and  
3 you've seen a change in the SNM. Is it fair to say  
4 that you're kind of one of the older generations  
5 that's around now of the SNM?

6       A. That's true.

7       Q. And it's kind of hard to -- maybe  
8 sometimes older generations don't like what new  
9 generations are doing with things?

10      A. Yeah, that's true.

11      Q. Would predator and prey -- was SNM -- were  
12 they predators or prey?

13      A. Okay. See, the way I interpreted that  
14 question when he presented it to me was, is that we  
15 ran around bulldogging everybody, taking shit from  
16 everybody, taking everybody's dope. And that wasn't  
17 necessarily true. You know, that wasn't  
18 necessarily -- I mean, I didn't do that. I never  
19 did that. And I know a lot of my older brothers  
20 never did that.

21           I mean, predator and prey. Within prison  
22 life, you can't be seen as weak, I mean, because if  
23 you're seen as weak, you're going to be taken  
24 advantage of. And there's number of different ways  
25 a person can take advantage of you, you know what I

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1 mean, hundreds of different ways, you know.

2 Q. Now, you talked about how -- you said, you  
3 know, a large percentage are dope fiends. Were you  
4 ever one of those that was really involved heavily  
5 in the drug --

6 A. Yes, I was. I've sold -- I mean, I used  
7 to have my wife, who I was married to back in the  
8 '90s, I used to have my wife bring me in dope. And  
9 I was supporting her from inside. I mean --

10 Q. How did you meet your wife?

11 A. Through Anthony Ray Baca's wife.

12 Q. Okay. Was this a jailhouse romance sort  
13 of thing?

14 A. It was.

15 Q. And so Anthony Ray Baca's wife introduced  
16 you to a woman that you married while you were  
17 incarcerated?

18 A. Yes, ma'am.

19 Q. And what would she do?

20 A. She'd bring me in dope. I mean, it  
21 started at the South -- it started in the North,  
22 where she would come and visit me three times a  
23 week. And at that time she was selling her food  
24 stamps and ABT cards to buy me -- we called them  
25 medios, street papers of heroin. And it went from

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1 street papers of heroin to grams of heroin, quarter  
2 ounces of heroin.

3 Q. And was that -- did you at some point  
4 divorce her, or did that relationship end?

5 A. After about a year. She got strung out.

6 Q. Now, you mentioned the term "busted a  
7 grape"?

8 A. Yes.

9 Q. What does that mean?

10 A. Earning your bones. I mean, it's another  
11 word for, like -- it's like a brother who never did  
12 anything. I mean, I know brothers who have been in  
13 the onda for years, for years, years, years. Can I  
14 use an example?

15 Q. Sure.

16 A. Let's talk about Jerry -- they call him  
17 Plaz.

18 Q. Montoya?

19 A. Montoya. Jerry Montoya. I mean, before  
20 he committed that murder with Javier Molina, he did,  
21 like, 13, 14, 15 years before -- that's the first  
22 thing I've ever known him to do.

23 Q. So that would be an instance where  
24 somebody had to earn their bones?

25 A. Yeah. I mean, although he was a carnal

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1 for all them years -- and I mean, he got dope here  
2 and there, but --

3 Q. And you talked about how there are some  
4 weak members, so to speak. Would a weak SNM member  
5 be appointed a leader of a pod at the different  
6 facilities, or in order to be a leader of a pod,  
7 would you be strong?

8 A. Not necessarily. Because there have been  
9 people who have been so-called pod bosses that never  
10 earned that position, that never earned that  
11 position. To me, in order to be a shot-caller or a  
12 pod boss, you had to at least put in work to do it.

13 Q. And that's your idea of being -- a good  
14 requirement for being a pod boss?

15 A. Yeah.

16 Q. And you talked about the paperwork and the  
17 discussion at the South that you had with Mario  
18 Rodriguez and others, and talking about going down  
19 south, and how there was a rumor that there was  
20 paperwork already down there. Is the paperwork  
21 important in order for the hit to be carried out?

22 A. That's the only way it can be carried out.

23 Q. And as you mentioned, Mario Rodriguez was  
24 a soldier. Would he take orders from leaders since  
25 he wasn't a leader at that time?

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1 A. Yeah.

2 Q. Would he have to take --

3 A. He would have to. I mean, yeah, he would  
4 have to. In other words, like, okay, me being a  
5 shot-caller, somebody needs to earn their bones, I  
6 send them on a mission. He didn't do it, then we  
7 take him out. You do him or we do you.

8 Q. And that's the way the SNM -- it's the  
9 motto for the SNM?

10 A. Yes.

11 MS. ARMIJO: May have a moment, Your  
12 Honor?

13 THE COURT: You may.

14 MS. ARMIJO: Nothing further. Thank you.

15 THE COURT: Thank you, Ms. Armijo.

16 All right. Mr. Martinez, you may step  
17 down.

18 Is there any reason that Mr. Martinez  
19 cannot be excused from the proceedings? Ms. Armijo?

20 MS. ARMIJO: No, Your Honor.

21 THE COURT: Anybody from the defendants  
22 have any objection to him being excused?

23 MS. DUNCAN: No, Your Honor.

24 THE COURT: Not hearing any objection from  
25 the defendants, you're excused from the proceedings.

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1 Thank you for your testimony.

2

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7 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
8 Official Court Reporter for the State of New Mexico,  
9 do hereby certify that the foregoing pages  
10 constitute a true transcript of proceedings had  
11 before the said Court, held in the District of New  
12 Mexico, in the matter therein stated.

13 In testimony whereof, I have hereunto set my  
14 hand on this 12th day of March, 2018.

15

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